

# The Force of Democracy – A Pull as Elemental as Gravity

7 Aug 07

The thread below gives an excellent example of how Democracy does an end-run around a Constitutional Republic – much as water will eventually drip through an untended roof.

My friend Henri is a self-proclaimed Patriot. He would die to reestablish the Constitutional Republic as it was initially instituted. But in his zeal he was found recently, innocently advocating for the undoing of the 1<sup>st</sup> Amendment's protection of the right of free speech, and freedom of the Press. He was incensed that the court findings in the case below were overturned by an Appeals Court. No one was punished for lying!

Moral outrage at an obvious wrong is a sign of health. And when it is held by the majority, it matters little what prior agreements were made, i.e. the Constitution – there will be a group-handling of the outrageous situation. Mob rule is hard to resist, because in the last analysis a large enough Mob will do whatever it pleases.

Little by little the Majority has asserted its Democratic power; and little by little the Constitution has been subverted. Drip... drip... drip...

The Constitution was to be a shield against the concept of “Might makes right,” and the bloodier aspects of “Survival of the fittest.” But under the artful manipulation of the Mob, anything will fly. (And the fittest in this game just might be those who have learned how to most successfully manipulate the Mob.)

But back to my friend Henri – when it is pointed out to him that he was actually railing against the Constitution itself, he doesn't thank me for setting him straight, but half jokingly reproves me for having dampened the fun of his moral outrage.

Drip... drip... drip...

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#1 -----Original Message-----

**From:** Henri

**Sent:** Monday, August 06, 2007

**To:** Me

**Subject:** “FLORIDA COURT RULED THAT MEDIA CAN LEGALLY LIE”

CMW REPORT, Spring 2003

Title: “Court Ruled That Media Can Legally Lie”

Author: Liane Casten

<http://www.projectcensored.org/11-the-media-can-legally-lie/>

ORGANIC CONSUMER ASSOCIATION, March 7, 2004

Title: “Florida Appeals Court Orders Akre-Wilson Must Pay Trial Costs for \$24.3 Billion Fox Television; Couple Warns Journalists of Danger to Free Speech, Whistle Blower Protection”

Author: Al Krebs

Faculty Evaluator: Liz Burch, Ph.D.

Student Researcher: Sara Brunner

In February 2003, a Florida Court of Appeals unanimously agreed with an assertion by FOX News that there is no rule against distorting or falsifying the news in the United States.

Back in December of 1996, Jane Akre and her husband, Steve Wilson, were hired by FOX as a part of the Fox "Investigators" team at WTVT in Tampa Bay, Florida. In 1997 the team began work on a story about bovine growth hormone (BGH), a controversial substance manufactured by Monsanto Corporation. The couple produced a four-part series revealing that there were many health risks related to BGH and that Florida supermarket chains did little to avoid selling milk from cows treated with the hormone, despite assuring customers otherwise.

According to Akre and Wilson, the station was initially very excited about the series. But within a week, Fox executives and their attorneys wanted the reporters to use statements from Monsanto representatives that the reporters knew were false and to make other revisions to the story that were in direct conflict with the facts. Fox editors then tried to force Akre and Wilson to continue to produce the distorted story. When they refused and threatened to report Fox's actions to the FCC, they were both fired. (Project Censored #12 1997)

Akre and Wilson sued the Fox station and on August 18, 2000, a Florida jury unanimously decided that Akre was wrongfully fired by Fox Television when she refused to broadcast (in the jury's words) "a false, distorted or slanted story" about the widespread use of BGH in dairy cows. They further maintained that she deserved protection under Florida's whistle blower law. Akre was awarded a \$425,000 settlement.

Inexplicably, however, the court decided that Steve Wilson, her partner in the case, was ruled not wronged by the same actions taken by FOX.

FOX appealed the case, and on February 14, 2003 the Florida Second District Court of Appeals unanimously overturned the settlement awarded to Akre. The Court held that Akre's threat to report the station's actions to the FCC did not deserve protection under Florida's whistle blower statute, because Florida's whistle blower law states that an employer must violate an adopted "law, rule, or regulation." In a stunningly narrow interpretation of FCC rules, the Florida Appeals court claimed that the FCC policy against falsification of the news does not rise to the level of a "law, rule, or regulation," it was simply a "policy." Therefore, it is up to the station whether or not it wants to report honestly.

During their appeal, FOX asserted that there are no written rules against distorting news in the media. They argued that, under the First Amendment, broadcasters have the right to lie or deliberately distort news reports on public airwaves. Fox attorneys did not dispute Akre's claim that they pressured her to broadcast a false story, they simply maintained that it was their right to do so. After the appeal verdict WTVT general manager Bob Linger commented, "It's vindication for WTVT, and we're very pleased... It's the case we've been making for two years. She never had a legal claim."

**#2 From:** John Huckel

**Sent:** Monday, August 06, 2007

**To:** Henri

**Subject:** RE: "FLORIDA COURT RULED THAT MEDIA CAN LEGALLY LIE"

Be careful what you wish for!

This article acts as if there were something wrong with the verdict. Would you have preferred it if the court had said, "Horrors! A lie in the media! Arrest them all!"?

Maybe you could apply for Truth Czar in the new Department of Veracity (a quasi-governmental agency).

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#3 -----Original Message-----

**From:** Henri

**Sent:** Monday, August 06, 2007

**To:** John Huckel

**Subject:** RE: "FLORIDA COURT RULED THAT MEDIA CAN LEGALLY LIE"

**You obviously didn't read the whole thing. The verdict was just fine. The appeals court overturned it.**

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#4 **From:** John Huckel

**Sent:** Monday, August 06, 2007

**To:** Henri

**Subject:** RE: "FLORIDA COURT RULED THAT MEDIA CAN LEGALLY LIE"

OK. I'm going to try to cover for you here, but I don't know if I can.

Let's go over the facts as they are presented:

- 1) There is a company engaged in a legitimate business not breaking the law.
- 2) Two of their employees refuse to do what the employer hired them to do.
- 3) The employer fires the two rebellious employees.
- 4) The employees sue the company for firing them without cause.
- 5) They win and are awarded lots of money.
- 6) The employer appeals, saying, "Show me the law!"
- 7) The Appeals Court reverses the decision saying that the company never broke any law, so canning two trouble-makers for insubordination alone, is no crime.

Careful the slope is slippery.... In your gut you want those lying so-and-so's at FOX strung up by the balls. Understood. (They and a few others deserve their comeuppance.)

BUT, there is no law against lying! There can't be unless you are interested in that Czar post.

There are laws against maliciously damaging another with lies. But that wasn't up for grabs in this case.

And if you think of it here, the bastards were being quite Constitutional on this one. The FCC could never be given Police Power over lying, without totally nullifying the 1st Amendment.

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#5 -----Original Message-----

**From:** Henri

**Sent:** Tuesday, August 07, 2007

**To:** John Huckel

**Subject:** RE: "FLORIDA COURT RULED THAT MEDIA CAN LEGALLY LIE"

**GODDAMN NITPICKER!!!!!!!!!!!!!!**

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#6 -----Original Message-----

**From:** John Huckel

**Sent:** Tuesday, August 07, 2007

**To:** Henri

**Subject:** RE: "FLORIDA COURT RULED THAT MEDIA CAN LEGALLY LIE"

I accept your apology.