WHAT I TOLD THE SEBASTOPOL, CALIFORNIA CITY COUNCIL
ON
7 SEPTEMBER 2010
AND
WHY

by

Peter J. Mancus
Attorney at Law
pmancus@comcast.net
www.cloud9photography.us
Tel.: (707) 824-1884
8 September 2010

On 7 September 2010 I ate alone at a restaurant. While eating I began to read an important federal Ninth Circuit case decision on the First Amendment to the U.S. Constitution dealing with a vital right, namely, freedom of speech. The name of this case, which was decided on 17 August 2010, is: U.S. v. Alvarez, Case No. 08-50345.

Briefly, the material facts in Alvarez are: 1) Xavier Alvarez was a low level elected official who in 2007 at a public meeting told the public, "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. I'm still around."; 2) Alvarez made a hobby of lying abut himself and had a long history of fabrications; 3) before Alvarez was elected, a woman informed the FBI about Alvarez's propensity for making false claims about his military past and told the FBI that Alvarez had told her that he had won the Medal of Honor for rescuing the American ambassador during the Iranian hostage crisis and he was shot when he returned to the embassy to save the American flag; 4) Alvarez told another woman that he was a Vietnam veteran helicopter pilot who was shot down and with the help of buddies got his chopper back into the sky; 5) Alvarez never spent a single day in the service of any branch of the U.S. Armed Forces and he was never awarded any military medal; 6) the federal Department of Justice indicted Alvarez for two counts of violating a federal penal statute, 18 U.S.C. § 704(b),(c)(1), the "Stolen Valor Act,"arising from his claim that he was awarded the Congressional Medal of Honor; 7) Alvarez is probably the first person to be charged and convicted under the present version of the Stolen Valor Act; 8) Alvarez moved to dismiss the indictment on the grounds that the Stolen Valor Act is unconstitutional on its face because it conflicts with the First Amendment's constitutional guarantee of free speech and because it was improperly applied against him; 9) the federal lower court denied Alvarez's motion; and 10) Alvarez then plead guilty as charged to one count of the indictment with a reservation of his right to appeal the First Amendment issue.

An exact quote of the applicable Stolen Valor Act follows:

> Whoever falsely represents himself or herself, verbally or in writing, to have been awarded any decoration or medal authorized

> by Congress for the Armed Forces of the United States, any of the service medals or badges awarded to the members of such forces, the ribbon, button, or rosette of any such badge, decoration, or medal, or any colorable imitation of such item shall be fined under this title, imprisoned not more than six months, or both.

18 U.S.C. § 704(b) enhances the prescribed prison term to one year if the decoration involved is the Congressional Medal of Honor, a distinguished-service cross, a Navy cross, an Air Force cross, a silver star, or a purple heart.

Questions:

1) What do you think of Xavier Alvarez making false public claims about his military record and award of the Congressional Medal of Honor?;

2) Do you think the Stolen Valor Act is constitutional?;

3) Do you think Alvarez's claims are protected constitutional Free Speech, per the First Amendment?;

4) Do you think Congress, via a statute such as the Stolen Valor Act, can constitutionally regulate Free Speech and make Alvarez's false assertions a crime?;

5) How do you think the Ninth Circuit ruled in this case–for or against Alvarez?

6) How do you think the Ninth Circuit should have ruled in this case?;

7) As to Nos. 1-6, inclusive, why?;

8) Do you care about these kinds of issues?;

9) Are you a functional constitutional illiterate and/or ignoramus?;

10) Do you know what are the limits, if any, on your Free Speech rights?; and

11) Do you censor yourself and hold back when you express yourself publicly because you do not know what is the extent of your Free Speech rights, and, not knowing that, you pull way back to "play it safe" and avoid getting in trouble legally about what you communicate?

The federal Ninth Circuit is a large, important, court. In terms of geographical size and population within its jurisdiction, it is the largest of the federal appellate circuits.

The federal Ninth Circuit, historically–and currently, is also an exceedingly interesting circuit. Many court observers assert that the Ninth Circuit is the most over turned circuit by the U.S. Supreme Court.

I have read a large number [hundreds] of their decisions. One of their decisions, on the Second Amendment right to bear arms, was, in my judgment, so egregiously horrible, I wrote a long op-ed about it that I titled "Judges' Brain Fart." Recently, the U.S. Supreme Court decided a case that, in context, over turned the Ninth Circuit decision that I characterized as "a judges' brain fart."

As a sweeping generalization, in my judgment, some times the Ninth Circuit decides a case wrong, and, when they get it wrong, it is periodically horribly wrong. On the other hand, the Ninth Circuit, in my judgment, frequently gets it right and, those judges are often exceedingly perceptive, insightful, thoughtful, well reasoned, and/or eloquent word smiths. When that happens, their decisions are judicial gems that are a serene pleasure to read. Significantly, Ninth Circuit judges who write those kinds of decisions inspire my confidence in the federal judiciary,

which is often lacking. I appreciate judges who write those excellent decisions so much that I can truthfully say that I would be willing to place my life in serious mortal jeopardy to defend theirs.

Let's return to a question I asked earlier: How do you think the Ninth Circuit decided Alvarez's appeal?

Answer: The mighty Ninth Circuit ruled, guess what?, *for* Alvarez.

I have an enduring, extremely intelligent, talented, experienced, attorney friend who is appalled by how the Ninth Circuit decided Alvarez's appeal. I disagree with my attorney friend, strongly. I believe the judges who ruled in Alvarez's favor got it right, for the right reasons, and they reasoned-to-result perfectly and persuasively, and they also expressed themselves with excellent thoughtful insights, with frequent eloquence, well supported by case precedents, including many from the U.S. Supreme Court.

A checklist of important statements the Ninth Circuit made in this case follows:

1. The Stolen Valor Act "applies to pure speech" and it imposes "a *criminal* penalty . . . plus a fine for the *mere utterance or writing* of what is, or may be perceived as, a false statement of fact–without anything more." [Emphasis in original.]
2. The Stolen Valor Act concerns them "because of its potential for setting a precedent whereby the government may proscribe speech solely because it is a lie."
3. "[M]ost knowingly false factual speech is unworthy of constitutional protection and . . . many lies may be made the subject of a criminal law without creating a constitutional problem."
4. "[M]ost people lie about some aspects of their lives from time to time."
5. The First Amendment to the U.S. Constitution, where relevant, states, "Congress shall make no law . . . abridging the freedom of speech . . ." but, arguably, that is exactly what Congress purported to do with the Stolen Valor Act, namely, abridge, infringe against, and/or regulate what a person can say about U.S. Armed Forces medals.
6. Even though the First Amendment constitutional guarantee of Free Speech, per the original constitutional text, as written, codifies an absolute right of Free Speech, the judiciary has created well established exceptions that limit the right of Free Speech, and these major exceptions are: A) obscenity, B) defamation, C) fraud, D) imminent incitement to riot or to overthrow the government, and E) speech that is integral to criminal conduct, all of which are treated as "low value speech."
7. The Ninth Circuit disagreed with the government's assertion that "the erroneous statement of fact is not worthy of constitutional protection" because A) "It has long been clear that First Amendment protection does not hinge on the truth of the matter expressed."; B) "Authoritative interpretations of the First Amendment guarantees have consistently refused to recognize an exception for any test of truth"; C) Free Speech protection does not "hinge on the distinction of 'facts' and 'ideas'"; D) "the 'First Amendment requires that we protect some falsehood in order to protect speech that matters.'"; E) historically, this nation's Framers and Founders and its people have adopted this core orientation: "in spite off the probability of excess and abuses, [Free Speech], in the long view, [is] essential to an enlightened opinion and right conduct on the part of the citizens of a democracy."; and F) "Erroneous statement is inevitable in free

debate, and . . . it must be protected if the freedoms of expression are to have the breathing space that they need to survive."

8. For the reasons stated, the Ninth Circuit *rejected* the government's contention that "[f]alse statements of fact are particularly valueless."
9. For the reasons stated, the Ninth Circuit quoted, with approval, an important statement by the U.S. Supreme Court: "In the context of governmental restrictions of speech, it has long been established that the government cannot limit speech protected by the First Amendment without bearing the burden of showing that its restriction is justified."
10. For the reasons stated, the Ninth Circuit also stated, "the government's approach would give it license to interfere significantly with our private and public conversations. Placing the presumption in favor of regulation . . . would steadily undermine the foundations of the First Amendment."
11. For the reasons stated, the Ninth Circuit refused to embrace a presumption that government regulation of pure speech is constitutional because A) that would turn the First Amendment on its head; B) such a presumption would create a "boundless" basis for the government to distinguish what is and is not acceptable Free Speech; C) those outcomes are not acceptable to the Ninth Circuit; D) the core theory behind Free Speech is that when there is a robust and uninhibited marketplace of ideas where literal free speech, and more of it, unfettered, and not chilled, thrives, where speech is used to seek truth in the marketplace of ideas, to expose lies and false claims, there is scant need for government regulation and censorship of Free Speech, in most instances; E) government agents should rarely be put in a position where they can decide on an ad hoc basis what is "truth" and how to balance the relative societal costs and benefits of unfettered Free Speech; F) "[t]he constitutional right of free expression is powerful medicine in a society as diverse and as populous as ours. It is designed and intended *to remove governmental restraints* from the arena of public discussion, putting the decision as to what views shall be voiced largely in the hands of each of us . . . ." [Emphasis in the original.]
12. "There is certainly no unbridled constitutional right to lie."
13. "[T]he right to speak and write whatever one chooses–including, to some degree, worthless, offensive, and demonstrable untruths–without cowering in fear of a powerful government is, in our view, an essential component of the protection afforded by the First Amendment."
14. "The fundamental rule is found in the First Amendment itself: 'Congress shall make no law . . . abridging the freedom of speech.'"
15. For the reasons stated, the Ninth Circuit presumptively protects "*all* speech against government interference." [Emphasis in original.]
16. The Ninth Circuit quoted with approval what another judge said, "The First Amendment presupposes that right conclusions are more likely to be gathered out of a multitude of tongues, than through any kind of authoritative selection. To many this is, and always will be, folly; but we have staked upon it our all."
17. "We find no authority holding that false factual speech, as a general category unto itself, is among [the exceptions to constitutionally protected Free Speech]."

18. Since erroneous statements of fact are inevitable in free debate the First Amendment requires that the judiciary protect some falsehood to protect free speech that matters.
19. A penal statute that punishes an innocent mistake of fact imprudently induces an unduly cautious and restrictive exercise of Free Speech.
20. "[T]he First Amendment clearly prohibits criminally punishing negligent speech about matters of public concern.", but the Stolen Valor Act does not require A) a malicious violation or B) an element of knowledge that a factual statement is false.
21. "[M]ost people know the truth about themselves."
22. "[T]here is no readily apparent reason for assuming, without specific proof, that the reputation and meaning of military decorations is harmed every time someone lies about having received one."
23. The Stolen Valor Act would make false claims about military awards uttered in the privacy of one's home a crime, and that is not acceptable to the Ninth Circuit.
24. The Stolen Valor Act does not require the government to sustain any burden to prove that Alvarez's false claims about military service or medals or both "proximately caused damage to the reputation and meaning of military decorations and medals.," and that lack of *damage* caused by Alvarez concerned the Ninth Circuit.
25. The right against defamation belongs to individual human beings, not governments; therefore, government may not restrict speech as a means of self-preservation for government itself or for the respect and honor due military service and/or military medals.
26. The Stolen Valor Act is overly broad because Congress has other constitutionally valid means for preserving the honor and respect due to military service and those awarded military medals. For example, Congress has actual authority to A) publish the names of legitimate recipients of military medals and the names of false claim-ants, B) to establish educational programs, and C) to prohibit the act of posing as a veteran to obtain benefits.
27. The First Amendment does not permit government to pursue preserving the honor and respect due to veterans and military medals via means of regulating and criminalizing pure speech about false claims about military service or military medals or both.
28. When the woman reported Alvarez to the FBI, Free Speech and the marketplace of ideas had already successfully done their job, constructively: Alvarez was already exposed as a self-aggrandizing liar, he had been publicly humiliated as a liar in his community, he was referred to as an "idiot" and as a "jerk," he had already ruined his credibility, no one detrimentally relied on his false statements, and his false statements did not directly or indirectly bring any disrespect upon military service or military medals or those who were legitimately awarded military medals.
29. Valueless false speech is best checked with *more* speech, not by a law criminalizing speech that is inconsistent with core First Amendment principles.
30. Alvarez "was prosecuted simply for saying something that was not true."
31. "We are aware of no authority holding that government may, through a criminal law, prohibit speech *simply* because it is knowingly factually false." [Emphasis in original.]
32. "[T]here can be no doubt that there is affirmative constitutional value in at least some knowingly false statements of fact. . . . The Colbert Report thrives on making deliberate false statements of fact. . . . ."

33. A false statement often makes a valuable contribution to public debate, especially when it collides with error and the truth, which often must first happen for the truth and fact to be exposed and appreciated as the truth.
34. "[C]reative uses of knowingly false speech are highly protected."
35. For the reasons stated, "false factual speech as a general category is not, and cannot be, proscribed under threat of criminal prosecution."
36. "Because First Amendment freedoms need breathing space to survive, government may regulate the area only with narrow specificity."
37. Laws that purport to regulate pure speech based on its content are subject to "strict scrutiny standard of review," namely, "the government must show that the law is narrowly tailored to achieve a compelling government interest" and there is no less restrictive means available to achieve that alleged compelling government interest.
38. The government did not satisfy its burden of proof to show that there was not any less restrictive means available to prevent fraudulent claims about receipt of military honors that cause damage to the reputation and meaning of such medals.
39. When correctly applied, the preferred First Amendment remedy is "more speech, not enforced silence" because "the competition of ideas" in the public marketplace of ideas is the best guarantee of exposing fact and truth, not the correction of or the conscience of a judge or a jury.
40. Alvarez's lies were deliberate and despicable but they did not escape notice and correction in the marketplace of ideas and unfettered Free Speech; thus, the unfettered First Amendment remedy of "more speech" had already rendered its societal beneficial remedy by exposing Alvarez as a liar even before a woman reported him to the FBI and even before criminal charges were filed against him.
41. Alvarez's lies about his alleged military service and his alleged award of the Congressional Medal of Honor did great damage to him, the liar, and there is no evidence that his lies did anything to damage the reputation or the meaning or both of military medals.
42. The Ninth Circuit rejected the government's implied assertions that A) it is safe to assume that members of the U.S. Armed Forces "perform their riskiest missions in the hope of receiving the Medal of Honor"; B) battlefield heroism is motivated in any way by consideration of being awarded a medal; and C) liars who claim they are veterans or they were awarded medals bring disrespect to veterans or to the medals and de-motivate members of the U.S. Armed Forces.
43. The Ninth Circuit opined that A) honoring and motivating members of the U.S. Armed Forces is important and B) the Stolen Valor Act is not necessary to do that.
44. There is a healthy, legitimate, historical skepticism against "permitting the government to police the line between truth and falsity, and between valuable speech and drivel". Thus, the Ninth Circuit presumptively protects "all speech, including false statements, in order that clearly protected speech may flower in the shelter of the First Amendment."
45. For the reasons stated, the Ninth Circuit held that the Stolen Valor Act "is not narrowly drawn to achieve a compelling governmental interest, and is unconstitutional."

46. For the reasons stated, the Ninth Circuit *reversed* Alvarez's conviction, and that reversal, in effect, upheld the concept that the First Amendment protects a person's right to Free Speech that includes some *false* factual assertions.

Question: Did the Ninth Circuit get this case right?

Answer: My answer is an emphatic, enthusiastic, unqualified, "Yes!" I, personally and professionally, am exceedingly leery of government regulation of "Free Speech," and, crediting the Ninth Circuit with sincerity and conviction with what they wrote in Alvarez, they are, too.

The law, however, is complicated. There is "the general statement of the law," "the fallacy of the general statement of the law," "the exceptions to the general statement," "the exceptions to the exceptions," "the broad view," "the narrow view," "the majority view," "the concurring view," "the dissenting view," "the Executive's view," "Congress' view," "the Judiciary's view," "the Federal view versus the States' views," "the Government's view," "the citizen's views", and, of course, the original controlling text of the Supreme Law of the Land, the First Precedent, namely, the commands of the U.S. Constitution itself.

My core orientation includes these concepts: A) absent an express power granted to government in the U.S. Constitution's text, there is no "official act" and no "actual authority" to act unless the government official who asserts his or her authority can logically, on the merits, trace his chain of authority back to an express grant of that authority in the Constitution's text, as written, not as manufactured by the Judiciary under color of law; B) in most case, government's powers should be construed narrowly, in order to keep government a "servant"; C) in most cases, citizens' rights should be construed broadly, approaching near absolutes and in some cases, true absolutes; D) realistically, government's powers and citizens' rights often collide, and, when they collide, there is a compelling legitimate need for a balancing of the competing interest; and E) absent a true compelling government interest, in most cases, if not all, the balance should be done with a bias, as much as possible, in upholding as broad as possible, an expansive individual right and a narrow government power.

As to Free Speech, the First Amendment, on its face, declares what appears, superficially, to be a near absolute right, if not a true, absolute right. For example, the First Amendment, where relevant, states, "Congress shall make no law . . . abridging the freedom of speech." That language smacks of an absolute right. However, while I champion remaining faithful to the Constitution's text, I do not construe that language to be a true, literal, absolute. Briefly, some of my reasons follow.

I once heard a former CBS reporter, Sam Donaldson, state, with a straight face, that if had been privy to General Eisenhower's invasion plans for the Allies' D-Day invasion of Europe to liberate Europe from Nazi occupation, he would have, with a clear conscience, broadcasted those entire plans, in advance, to the world, with the knowledge that such a broadcast would help the German military slaughter Americans and Brits, etc., and make it much more difficult for the Allies to defeat the Germans. Donaldson asserted that the text of the First Amendment gave him the absolute unfettered right as a U.S. citizen and as a journalist to make such broadcasts.

I emphatically disagree with Donaldson. He reads the First Amendment out of context of construing [interpreting and applying] the U.S. Constitution *as a whole*. His narrow view ignores the Constitution's prohibition against treason, which includes giving aid and comfort to this

nation's enemies. As much as I loathe excessive military secrecy and hindrance of a Free Press, there is a legitimate place for military secrecy, etc.

The First Amendment, if construed as an absolute, would bar Congress from passing a law that makes mutiny on a U.S. Navy ship unlawful. I do not believe that the absolute "Congress shall make not law . . . abridging the freedom of speech" bars Congress from making a law against mutiny. This is because the Constitution also empowers Congress with the power "to provide and maintain a navy" and that power has to be balanced against the right to Free Speech.

Question: How is this Alvarez decision relevant to what I told the Sebastopol City Council on 7 September 2010?

Answer: I focus on what the Ninth Circuit said in Alvarez about the limits it imposes on government regulation of pure speech.

Periodically, I frequently attend Sebastopol, California public city council meetings. From that experience, I have personal knowledge that that council dares to impose a three minute limit on how long they will allow citizens to address them, especially when the citizen tells them anything they do not want to hear, and even more so if the citizen is critical of them. Thus, when I read in Alvarez that the Ninth Circuit said, ". . . government cannot limit speech protected by the First Amendment without bearing the burden of showing that its restrictions is justified." [emphasis added], I was delighted because I have always believed that A) that council's three minute limit is an unconstitutional government regulation of Free Speech; B) three minutes is not long enough; and C) that council arbitrarily enforces that rule on an ad hoc basis, without benefit of controlling authority, to promote *their* selective agenda and to indirectly *suppress* competing ideas.

As I read Alvarez, on 7 September 2010, I realized that that day was the first Tuesday of that month, which was important, at least to me, because it was my understanding that the Sebastopol City Council holds its public meetings on the first and the third Tuesdays of the month.

I decided to attend the Sebastopol City Council public meeting for 7 September 2010 to tell them some things that have been kicking around in my mind for awhile.

I got to the meeting place right at 7:00 p.m. When I arrived, I saw many people with placards opposing PG&E's [a local utility company] "smart meters" on the grounds that A) they emit harmful radiation that makes people sick and B) they are inaccurate. I also saw that the meeting, or a meeting, was in place.

I studied the council's agenda for that day. As I read that agenda, I noticed that a "Community Development Agency Meeting" with some council members started at 6:00 p.m., and I decided it appeared to me at 7:00 p.m. that that meeting had not yet ended and that the real City Council meeting was suppose to follow after the other meeting ended.

As I read the council's agenda I saw two relevant statements: 1) "*Speakers are encouraged to limit their comments to 3 minutes maximum* so that all speakers have an opportunity to address the City Council." and 2) "Public is advised to limit discussion to one presentation per individual. *Please keep your comments between 3 and 5 minutes*; . . . ." [Emphasis added.]

I construed these statements to be, at most, guidelines or suggestions, not a true "rule". From experience, however, I know that this council treats these guidelines or suggestions as a

rigid rule, especially if a speaker is critical of them or tells them anything they do not want to hear.

I waited for the real City Council meeting to start.

As I waited, I was keenly aware of a surge in my chest, of a strongly beating heart beat, of the emotions that swelled within me.

Unlike many who dismiss the emotions or passions as being corrosive of clear critical thinking, I embrace the idea that for a person with a well honed mind, the passions and the emotions are the end result of critical cerebral judgmental decisions and those emotions and those passions are God's way or Nature's way of providing the vital fuel and/or energy and/or resolve and/or commitment to get off one's ass, to stand up, to object, to speak up, to rebuke, to draw a line, to defend the line, to preserve Liberty. Thus, I am sensitive to passion and do my best to channel my passions constructively. As I stood and waited, I drew strength from my emotions, coupled with my judgments.

Soon after that meeting started, the council opened it up for "Public Comments," and a couple of speakers addressed the council [about "Smart Meters"] before I went to the podium.

Below is a faithful paraphrase of what I told the Sebastopol City Council on 7 September 2010.

> My name is Peter Mancus. I am a local self-employed attorney.
>
> If I were politically savvy and/or if I were hear to make friends I would tell you what I presume you want to hear. But, I am not here to make friends. I am here to be blunt, and I am here to try to stimulate critical thinking anew on your part.
>
> On June 6, 2009, I personally stood on and walked on the beach at Normandy, France. For those of you who do are historically challenged, Normandy is were American soldiers landed on June 6, 1946 to begin the liberation of Europe from Nazi occupation and tyranny.
>
> When I was on that beach, believe it or not, I thought about you folks [pointing to the council members first and then to my fellow citizens in the audience.] Time does not permit me to tell you in detail what I thought about you and the soldiers who fought and died there, at Normandy, on June 6, 1946. A fair characterization of what I thought about all of you is this: I experienced a virulent white hot rage of anger and disgust directed, with good cause, against all of you, as a sweeping generalization.
>
> By "you," I do not necessarily mean the city council members present. I do not really know you with specificity. However, knowing the politics of this community and knowing what I will call "the historical Sebastopol City Council," going back to 1985, which is when I started to live here, and knowing the political leanings of my fellow citizens and who they vote for, I

want you–all of you, to know how I feel and think about you, candidly. I experience you to function as the infamous, dreaded, Tyranny of the Majority, and I am sick of it. I am feed up with how you function and I am feed up with your core mind set.

Recently, the U.S. Supreme Court ruled that the Second Amendment to the U.S. Constitution guarantees an individual right to firearms and that right is binding against the states, and that includes all political subdivisions of the states, which includes counties and cities, and that includes this city and you city council members and all of your government employees and agents, which includes the local city chief of police and his officers.

For years, I came to this podium, and for years, I told you pretty much exactly what the U.S. Supreme Court recently ruled about the Second Amendment. For years, I demanded that you take that right seriously, acknowledge it as right, treat it as right, uphold it, etc. For years, you–all of you, failed to heed what I told you because you did not like what I told you, you have your bias against that right, and you abused your power, functioning as the infamous local tyranny of the majority.

The U.S. Supreme Court ruled in my favor. I am on the winning side of that dispute. Now that the U.S. Supreme Court has ruled that this right is binding on you, what are you going to do about it?

For years, I have witnessed and heard you support a variety of quirky ideas, championing alleged rights that are not expressly stated in the U.S. Constitution while you simultaneously, in effect, did everything in your power to pragmatically rip out of the Constitution a right that is expressly stated there–the Second Amendment's individual right to firearms that "shall not be infringed."

A few months ago I had a chance meeting with ex-City Council member Bill Roventini at the local Safeway. To my amazement, he enthusiastically shook my hand and told me that down deep, he admired me for persistently railing against the city council for its cowardly handling of my various complaints, especially about how they dodged the Second Amendment issue, and he apologized to me for lacking the political courage to publicly support my point of view, which he agreed with, down deep.

I am disgusted with your performance and how you function. I want regime change.

At approximately that point, I heard the City Clerk's 3 minute time device go off and, immediately, the mayor, a local female attorney, did exactly what I presumed she would do, namely, she told me my time was up and I had to honor the 3 minute "rule." She actually referred to this 3 minute *suggestion*, per the agenda, as a "rule."

I immediately responded to the major as follows: A) I held up my copy of the Alvarez decision; B) I told her that per this recent Ninth Circuit decision the burden is on her to justify the 3 minute limit on what I, or my fellow citizens, can say to the council; C) based on how I construe [interpret and apply] the Alvarez decision, I believe the council's three minute rule is arbitrary and unconstitutional, primarily because it is too short and it is government regulation of and interference of Free Speech, arbitrarily; D) I have repeatedly personally witnessed previous councils waive the 3 minute rule and expand it to 15-30 minutes if a citizen tells them things they want to hear while the council has a known proclivity to enforce that rule rigidly against anyone who dares to tell them anything critical or brings up an issue they want to ignore; E) I am feed up with how they apply that rule arbitrarily; F) I comprehend that, as a matter of courtesy to my fellow citizens, I cannot hog a huge chunk of time, which would deny them time to address the council, but 3 minutes is too short and, when I yield, it will not be in recognition of the legitimacy of any 3 minute rule or because the mayor demanded that I honor the 3 minute rule, but I will yield when I am done.

The major kept interrupting me and I pressed on, telling her what I stated above, and the mayor kept verbally pushing back against me as I verbally pushed back against her.

I had a sense that the mayor might have been getting close to asking the local city chief of police, who was in attendance, and visibly armed, to physically remove me from the podium. She did not ask him to do so. If she had done so and if the chief had approached me, I would have made a point to avoid physical contact with him but I would held onto the podium as tightly as I could until I was done even if and when the chief had laid hands on me.

The mayor then told me that my opinion about what the Alvarez decision is only my opinion. She implied that my opinion about Alvarez is unimportant to her, and she acted as if she dismissed my opinion as being worthless. I told her that what I said about that decision was not just my opinion because the Ninth Circuit said it, I had the benefit of what the Ninth Circuit said, and, if she did not believe me, her "legal beagle" [my terminology] for the local City Attorney, can share the case and his evaluation of it with her, pointing to the City Attorney, telling him that I did not mean any disrespect by my "legal beagle" remark.

The mayor and I went around and around for awhile about this 3 minute "rule."

I ended my presentation with this key point: Historically, this council has used this 3 minute rule, arbitrarily, as a gate keeper, to let through or to block, speakers who praise them or who are critical of them and/or bring up issues they [the council] want to ignore or suppress or champion. Thus, the council uses this procedural rule arbitrarily to function as a government censor, and that is highly improper and unfair and I object and I will not play along with that abuse of power under color of law, just to get along with them.

I did not tell the council what follows but it was in my head and it was, and is, a large part of what motivated me to invest about 1.5-2.0 hours of my time to attend that meeting and to wait my turn to address that council on 7 September 2010.

When I was on the Normandy, France beach on June 6, 2009, an anniversary of the Allies' beach head landing against a Nazi occupied France, I saw, from horizon to horizon, a basically flat, extremely gentle slope, beach, with sand that was about 250 to 300 yards wide from where the surf ended and land [soil as opposed to sand] began, with virtually nothing on the beach or the sand, from horizon to horizon, but, where the land [soil] began, there was an extensive high area of varied modest height. In context, what this meant is this: On 6 June 1944, thousands of U.S. soldiers, if they did not get blown to bits in their landing craft before reaching that beach, had to cross approximately 250 to 300 yards of murderous, overlapping, German defensive fire, which they had years to arrange, to defend against the anticipated landing, *with no cover to hide behind for protection*.

It is a no brainer that it must have taken an enormous amount of commitment to duty and personal courage to board those landing craft and to try to cross that wide open beach with no cover, to advance against a wall of energized, lethal, lead and high explosives.

On June 6, 1944, approximately 10,000 US service members and allied soldiers died–on one day, across miles and miles of various beaches on the French coast line.

The survivors knew they had to move approximately 1,000 miles from Normandy, France to Berlin, Germany . . . and the Germans would not make it easy.

As I was on that beach, I wondered what men born to liberty [the Americans and the Brits, etc.] who went up against the Germans on that day, who sacrificed themselves, would say to the Sebastopol City Council and the approximate 500,000 other Domestic Enemies of the U.S. Constitution who hold elected or appointed government jobs in the U.S., who function as if they are Liberty Thieves and Freedom Haters and Tyrant Wannabees and Useful Idiots for Tyrant Wannabees, it they could come back from the dead and speak to these government officials. I also wondered what they would want me, part of the living, to tell the Sebastopol City Council, in their absence, because the Germans killed them. I wondered what they would want me to do with "the way of life" they helped to restore and secure, allegedly.

I could write a well documented, thick, accurate, truthful, book about many egregious sad real facts where various government agents in various jurisdictions throughout the United States, have abused their power and ruined the lives of excellent citizens, transforming the former Sweet Land of Liberty into a Dung Hill of Oppression. I could tear apart and ridicule to death government buffoonery and flaming, verbal bullshit spewed forth by dullards, aka, government officials who dare to, figuratively, piss on me [and others] and call their urine sweet rain water.

I want regime change. I want political whores who function as Liberty Thieves, Freedom Haters, Tyrant Wannabees, Useful Idiots for Tyrant Wannabees, and Domestic Enemies of the U.S. Constitution to resign or to embrace constitutionalism [obeying our Constitution's text and commands, as written.] I want them gone--removed from power, preferably by a peaceful vote, or, if truly necessary, by force. At a minimum, I want them to be rebuked in the public marketplace of ideas. Three minutes is not enough time to do that because their usurpations and harebrained ideas are extensive.

For these reasons, what the Ninth Circuit said in the Alvarez decision resonated with me, triggered my emotions and my passion for Liberty, and motivated me to address the council.

An ancient Greek opined something that I believe is 100% true: THE SECRET OF HAPPINESS IS FREEDOM AND THE SECRET OF FREEDOM IS COURAGE.

I do not consider myself to be a physically brave person. In fact, I consider myself to be a coward, namely, I am too damn afraid to lay down on my core values, to surrender self-rule and oversight of government officials to government officials. I am unwilling to blindly trust my fate to government officials.

I know what I believe and why I believe what I believe. I know where I stand on history's time line. I know what happened before I was born. I know what my rights are. I value individual liberty. I place a high premium on individual liberty.

I know there is one thing worth using lethal force to enforce, namely, the rights codified in the Bill of Rights to the U.S. Constitution, which is Mankind's greatest achievement. This is because that Bill ended in the New World the bankrupt, discredited, Old European idea of the alleged Divine Right of Kings to rule arbitrarily with no accountability.

When correctly understood, the most important and the highest public office in the United States of America is, guess what?, *citizen*. This is because A) all power starts with and flows from the *consent* of the citizens; B) power delegated from citizens to government and its agents is merely *delegated*; it is never *surrendered* power; C) citizens *retain* full power; and D) government agents are suppose to function as *public servants*, not *public serpents*.

Periodically, I have witnessed some of my fellow citizens go to the podium at the Sebastopol City Council meetings and publicly proclaim that that council is the best one in the entire state! Amazing. Really? I do not believe that assertion–not at all. If constitutional norms are the guiding measure, as they should be, I experience the Sebastopol City Council to be, at best, mediocre, undistinguished, hypocritical, and among the worse of usurpers.

I do not have the time or the desire to invest my time to bolster my opinions with specific factual minutia; however, if I did do that, I am supremely confident that most reasonably constituted people who read what I could truthfully write would agree with me, especially if they valued individual liberty and were constitutionally literate and sensitive to liberty related issues.

I have grown to have a near zero tolerance for political whores who run for political office, who lie to me, who tell me they want "to serve" me when, in fact, that is their euphemistic cover for their real agenda, namely, they want "to control" me, and, to do that, they will dishonor their sworn oath to uphold the U.S. Constitution, against all enemies, foreign and domestic, and they will substitute their harebrained ideas for what the U.S. Constitution declares is the law. These myopic, dullard, egomaniacal, dangerous, officials will do their utmost best to cover up this stark fact: they shuffle the laws like a card shark shuffles a deck and they call their usurpations "the law."

The truth, as I know it, is this: As a sweeping generalization, increasingly, in the U.S., there is no "Rule of Law," in the sense that there is no meaningful, extensive, *Constitutional* Rule of Law. Instead, it is now mostly politics and political calculus, where one gang hijacks government and that gang substitutes its personal opinions for what the law is, according to what they believe the law *should* be. To these gangs that get themselves elected, their concept of "Due Process of Law," which is suppose to be Americans' claim to fame, in reality, is this: Once in power, they abuse their power and dish out only that amount of "process" which they arbitrarily deem we alleged peons are "due," according to their caprice.

Question: Is it asking too much of government officials to obey the real *Constitutional* Rule of Law?

Answer: No!

Question: Do you know a simple, accurate, way to determine if government officials are any good?

Answer: Tell them what they are doing is wrong, tell them why, tell them to stop doing what is wrong, demand reform, give them a reasonable time to reform themselves, and see what they do. If they refuse to reform themselves, they are no damn good. They should be replaced.

Question: Is it prudent to question "Authority"?

Answer: Yes, indeed!

Question: How should a citizen experience a city council that A) does its utmost best to rip the individual right to firearms out of the U.S. Constitution?; B) sets up its citizens for plunder and mayhem by common criminals by telling them they must circulate in public unarmed and vulnerable to criminals, knowing that the police have no legal duty to protect them and, at best, the police have only a limited ability to protect them?; C) has *an indefensible, egregious, callous* attitude toward vital rights and toward citizens: if and when you are attacked by an armed citizen, when you are unarmed, because you were so stupid you allowed us to intimidate you into not exercising your individual right to a firearm for lawful self-defense, your duty as a good citizen is to shut up and die without making a fuss, without putting a spotlight on our flawed ideas; just die and go away; let us continue to get away with intimidating you into being unduly compliant with our usurpations in callous disregard of you, your life, your rights; yield to our superior judgment; let us assume the risk for you that nothing bad will happen to you if you cooperate with us; and, by all means, don't ever do anything to embarrass us, to point out the flaws in our core approach to governance; never expose how callous we are and how intolerant we are of your basic rights–Right to Life, Right to Liberty, Right to Free Speech, Right to Lawful Self-Defense With a Firearm; let us gamble with your life, to promote our version of "wisdom" and enlightened government?

Answer: Virulent, white hot, raging, unlimited, contempt.

Question: Will the Sebastopol City Council do anything meaningful to champion the individual right to firearms? To support reform of California laws that violate that right?

Answer: Probably not. I would be stunned if they did do anything materially positive, especially without being sued. This vital right is one that they appear to continue to loathe and do not want to be enforced.

Damn them. Repeat: Damn them.

In closing, one more point. On June 6, 2009, before getting to the Normandy Beach in France, I stopped to visit a few of the many D-Day invasion museums. Outside of one I saw a statute that surprised me . . . on the grounds of one of these French D-Day museums. What I saw, to me, was queer in the extreme; it strongly suggested to me that whomever erected what I saw failed to draw the right lessons from the Nazi occupation of France and the Allies' liberation of France.

What I saw was this: A large statute of a Smith & Wesson style revolver with the barrel twisted into a knot!

I think Albert Einstein was, and is, correct: Human stupidity is more vast than the universe.

Apparently, some French, like a lot of people in the extremely "progressive" liberal left where I live in Sebastopol, think firearms are bad and they should be demonized, banned, confiscated, rendered inoperable, and destroyed . . . and government and its agents should have a monopoly on firearms.

The statute of the handgun with its barrel tied into a knot ignores a stark, sobering, undisputed, historical fact: Free men born to liberty, armed, liberated the disarmed French and drove armed bad men, German soldiers occupying the French, from France.

That reality check underscores the enduring wisdom of what the ancient Greek opined: THE SECRET OF HAPPINESS IS FREEDOM AND THE SECRET OF FREEDOM IS COURAGE.

It is much easier to manifest *courage* when one is armed.

It is also much easier to hold the Prince to his promise when one is armed. This is because a callous Prince can treat an unarmed person as a peon but has to treat an armed person as a *citizen*, with enforceable rights that must be taken seriously and upheld.