

# Opposing view on free speech: Vulgarity is not a message

## The media are wrong to confuse freedom of expression in the Snyder case

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[USA TODAY](#) By *Richard L. Eubank*

While in uniform, VFW members have fought in every war and conflict to preserve, protect and defend the Constitution. They, better than most, know that most Americans have inherited the luxury of freedom while not having accomplished anything to earn it.

USA TODAY's VIEW: [Does First Amendment protect protests at military funerals?](#)

Other countries regulate public speech. The First Amendment prohibits such laws here. VFW holds dear and cherishes the First Amendment and the right of every citizen to express himself freely.

But the media are wrong to confuse freedom of expression in the Snyder case. The Phelps did not happen to picket within sight of Matthew Snyder's funeral. They announced their intention to hijack the event. They stood at the church entrance, forcing the procession to reroute, and — contrary to media reports — they were still fewer than 300 feet away from mourners. They published an insult-filled "Epic" about the Snyder family. Albert Snyder was not a passerby who happened to dislike what he heard; he was the victim of harassment.

Second, no one watching the Phelps' funeral protest would have understood their "message." The Phelps believe that American soldiers die because of the country's tolerance of homosexuality. But their signs didn't say that. They said, "You're Going to Hell" and "Thank God for Dead Soldiers" and depicted males engaging in anal intercourse. There is no "message" here, only vulgarity and insults.

Third, Matthew Snyder was not gay. No one in his family holds public office or is outspoken on gay rights. The Phelps randomly picked the Snyders. Shielding their conduct from

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liability gives them free rein to show up at any funeral spouting anti-gay epithets and to write hate-filled tirades about any person. The First Amendment does not protect such arbitrary persecution.

Finally, the Snyder case is not about whether the government can prohibit the Phelps from protesting. Albert Snyder asks merely that he be compensated for harm. Snyder presented evidence that the Phelps' conduct made him vomit, interfered with his mourning process and worsened his diabetes. The First Amendment may exist to protect unpopular speech, but private lawsuits exist so that those who cause injury will be held accountable to their victims. If we deprive these victims of legal recourse, they may seek retribution in ways that are far less palatable.

*Richard L. Eubank is national commander of the Veterans of Foreign Wars of the United States.*

In Support of Al Snyder, VFW filed its own friend of the court (amicus brief). In Support of Al Snyder, VFW filed its own friend of the court (amicus brief). Click [here](#) for the full document.