

First Amendment topics >



The First Amendment to the U.S. Constitution
 Congress shall make no law respecting an establishment of religion, or prohibiting the free exercise thereof; or abridging the freedom of speech, or of the press; or the right of the people peaceably to assemble, and to petition the Government for a redress of grievances. [ABOUT THE FIRST AMENDMENT >](#)

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News Story

County won't prosecute veteran for upside-down U.S. flag

By The Associated Press
 11.13.04

LINCOLN, Neb. — Charges against a Vietnam -era veteran who flew an American flag upside down to protest the war in Iraq have been dismissed.

American Civil Liberties Union officials said on Nov. 11 that Loup County authorities had agreed to drop the charges against 64-year-old Larry Lentz.

The case began last month when Loup County Sheriff Dan Kling warned Lentz that he could be ticketed for flying the upside-down flag in his yard.

Kling returned later, took the flag down and had Lentz ticketed for violating a 1977 state law that prohibits "mutilation of a flag."

Nebraska's flag law states: "A person commits the offense of mutilating a flag if such person intentionally casts contempt or ridicule upon a flag by mutilating, defacing, defiling, burning, or trampling upon such flag."

Violating the law is a misdemeanor punishable by three months in jail and a \$500 fine.

Lentz then bought another flag, but this time flew it upside down from his backyard flagpole.

When the sheriff returned a third time and threatened to issue another ticket, Lentz called the ACLU for help.

ACLU lawyer Amy Miller said Lentz has a right to fly the flag upside down to express himself, "especially because he's paid the price more than most of us by serving in our military."

Lentz served in the Navy from 1959 to 1967 and later in both the Navy and Army reserves.

Lentz says while he supports U.S. troops, he feels the war is wrong.

"My opinion is this country is in upside down mode right now," Lentz said in a statement released by the ACLU. "I decided to fly my flag upside down to show someone needs to make a change for the better. This doesn't mean anything against the boys or girls in the war right now. They're doing their job. I just wanted to express myself on my own land."

The ACLU's Tim Butz said Loup County Attorney Jason White agreed to drop the charges after both sides met.

White said on Nov. 11 that he and Kling would not comment on the case.

Butz said several U.S. Supreme Court decisions have overturned laws similar to Nebraska's flag statute.

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In its 1990 decision [U.S. v. Eichman](#), the high court struck down a federal law that outlawed burning the American flag.

"Punishing desecration of the flag dilutes the very freedom that makes this emblem so revered," the high court said.

The justices said the Flag Protection Act of 1989 violated freedom of expression guaranteed by the First Amendment to the Constitution. Writing for the majority, Justice William J. Brennan called it a "bedrock" constitutional guarantee.

"We are aware that desecration of the flag is deeply offensive to many," Brennan wrote.

But, quoting from an earlier ruling, he said, "If there is a bedrock principle underlying the First Amendment, it is that the government may not prohibit the expression of an idea simply because society finds the idea itself offensive or disagreeable."

In 1974, the Court in [Spence v. Washington](#) ruled in favor of a Washington college student who hung an American flag upside down and with a peace symbol taped to it from his apartment balcony to protest the 1970 killings of four people during anti-war protests at Kent State University by Ohio National Guardsmen.

The state argued it had an interest in preserving the "unalloyed symbol of our country."

The high court said the student had a right to display the flag as he saw fit.

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