



"Truthiness" and Right to Fib About Politicians Defended in Brief to U.S. Supreme Court

By [Ray Stern](#) Fri., Mar. 7 2014

A humorous brief to the U.S. Supreme Court filed last week invokes Stephen Colbert's concept of "truthiness" in a defense of the right to tell fibs about elected leaders.

Penned by lawyer Ilya Shapiro on behalf of the [Cato Institute](#) and satirist [P.J. O'Rourke](#), the amicus brief, written to defend against an Ohio law criminalizing inaccurate political speech, was dubbed the "best ever" by the legal-minded website "[Above the Law](#)."

The oddball legal document defends lies as "a key part of political discourse," and hammers home the point with an early footnote stating that the filers, "their counsel, family members, and pets have all won the Congressional Medal of Honor."

The case stems from the complaint of a former Ohio Congressman over a billboard planned by an anti-abortion group that stated he voted for federally funded abortions. Ex-Representative Steven Dreihaus got the billboard company to halt the planned ad, arguing that the claim was false and violated an [Ohio statute](#) that made it a crime to make false statements about a candidate. Activist group [Susan B. Anthony List](#) said it was making the assertion based on Dreihaus' vote for Obamacare, and challenged Ohio's law in court. Dreihaus says the group's claim is false because Obamacare requires abortions to be funded with non-federal money.

In fact, the question of whether anyone receives abortions subsidized with federal funds is [debatable](#) -- and that's another of the brief filers' points.

Though worth a read no matter what your political stripes, you might have to wear your right-wing goggles to fully appreciate some of the libertarian-leaning humor of the Cato Institute. For example:

"After all, where would we be without the knowledge that Democrats are pinko-communist flag-burners who want to tax churches and use the money to fund abortions so they can use the fetal stem cells to create pot-smoking lesbian ATF agents who will steal all the guns and invite the UN to take over America?"

Political discourse is weakened if Americans can't express not just truth, but "truthiness," Colbert's term for a statement "asserted 'from the gut' or because it 'feels right,' without regard to evidence or logic, the brief states.

The entire brief isn't funny -- after all, as it concludes, "criminalizing political speech is no laughing matter" -- but if you're interested in First Amendment issues, be sure to check it out.

[Click here to read the amicus brief by the Cato Institute.](#)