

Journalists' Trump Card

By Reg P. Wydeven
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In case you haven't heard, Donald Trump is running for President of the United States. He has said a lot of outrageous things during his campaign, such as his belief that he could "stand in the middle of 5th Avenue and shoot somebody" and not lose voters.

Some of Trump's claims are serious, while some are probably hyperbole. One particular assertion he made that's controversial is that if he's elected, he will change the nation's libel laws in order to make it easier to sue news organizations.

During a rally in Fort Worth, Texas, Trump said, "One of the things I'm going to do if I win... I'm going to open up our libel laws so when they write purposely negative and horrible and false articles, we can sue them and win lots of money." Because of some of Trump's outrageous claims, he has been criticized in the media.

"We're going to open up those libel laws so when The New York Times writes a hit piece, which is a total disgrace, or when the Washington Post, which is there for other reasons, writes a hit piece, we can sue them and win money instead of having no chance of winning because they're totally protected," he said. "We're going to open up libel laws and we're going to have people sue you like you've never got sued before."

Libel occurs when a false and defamatory statement about an identifiable person is published to a third party, causing injury to the subject's reputation. This is different from slander, which is spoken defamation of character. Other than the Freedom of the Press contained in the First Amendment to the Constitution, there is no federal law on libel; each state creates its own body of libel law.

It's no surprise that Trump doesn't like it when negative things are written about him. But to amount to libel, an article must be false. If it's true, it's not libel. Similarly, opinion pieces, such as movie reviews, cannot be libelous.

While private individuals must merely prove that an article was false, defamatory, and not an opinion, Trump, as a public figure, also has to prove that it was published with actual malice. Actual malice means that the story was published with the knowledge that it was false or with reckless disregard of whether or not it was false.

This rule stems from the landmark 1964 U.S. Supreme Court case Times vs. Sullivan. In this case, the Court decided that it has been too easy for government officials to win libel suits. Without stricter rules, the press would not have the ability to aggressively report on important issues of the day.

In 2012, Antonin Scalia, the late Supreme Court Justice, said that he "abhors" the ruling as he believed it gives news organizations the freedom to "libel public figures at will so long as somebody told you something."

Trump clearly agrees. If elected, I believe he will follow through on his promise to do what The New Yorker's John Cassidy describes as gutting the First Amendment. If he does, it is *my opinion* that he would be a cotton headed ninny muggins.

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