

In The  
Supreme Court of the United States

THE UNITED STATES OF AMERICA

*Petitioner,*

v.

ROBERT J. STEVENS

*Respondent.*

*ON WRIT OF CERTIORARI  
TO THE UNITED STATES COURT OF APPEALS  
FOR THE THIRD CIRCUIT*

**REPLY BRIEF FOR PETITIONER**

Please serve:

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JOSHUA MERLENBACH

BRIAN ZUROSKY

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## **A. Reply to the Respondent**

The statement by the respondent stating “18 U.S.C. § 48 was passed by Congress for the purpose of outlawing ‘crush videos’” gives the idea that the law was only passed with the “crush videos” in mind. It seems ironic that the group pushing for a literal interpretation of the 1<sup>st</sup> amendment would take the opportunity to attempt to heavily interpret the meaning behind the words of 18 U.S.C. § 48.

a. The use of *Texas v. Johnson* as a link to speech not being banned while having no social benefit is a link that cannot be made. 18 U.S.C. § 48 is preventing harmful speech from being produced. In Mr. Johnson’s case, he was making a symbol of protest. His act did not have a major negative effect on others. It was a sign of personally protesting the United States government.

b. The claims that 18 U.S.C. § 48 has a damaging effect on the animal rights movement occurring in the United States today, saying that depictions of maimed animals in an attempt to sway the American public to assist these animals would also be limited. The aforementioned statement is false. The clips shown have a positive effect on the human public. Although the pictures seem gruesome and horrific, the effect of showing these images is to persuade the viewers to realize the misery dog fighting and animal abuse causes for the animals, encouraging them to make actions to stop these events. 18 U.S.C. § 48 is a perfect example of one of these attempts.

c. The belief of the respondent that the United States Legislature has no desire to ban animal fighting with 18 U.S.C. § 48 is irrelevant. Animal fighting has previously passed laws making animal fighting, the promotion of such events, and the sale or transfer of items used in

animal fights illegal. Although the act of dog fighting is illegal, it still goes on, like many other criminal activities. In order to tighten their grip upon this activity, the government passed 18 U.S.C. § 48 in order to have other ways to stop these acts. 18 U.S.C. § 48 can be related to the limits on tobacco use of those under 18 years of age. While a minor being in possession of tobacco products is illegal, Congress also passed laws making it more difficult for minors to obtain tobacco, such that the sale of tobacco to minors and the assistance by one who is of legal age in getting a minor tobacco products are illegal.

d. The licensing to hunt animals during specific seasons has backing. The hunting of animals as a food source was never banned in any law. These licenses are mandated and there are set limits upon how much can be hunted. Many of the animals that are hunted during their highly regulated and specified seasons could easily become overpopulated in areas without the act of hunting. This may lead to a more dangerous coexistence between humans and animals. Animals would be forced to adapt and become more aggressive and it is quite possible it could create a violent approach to humans.

## **B. The videos in question present the concept of bad tendencies**

The respondent states that the videos created and sold by Stevens, as well as many others around the United States, are considered illegal by Congress due to the fact that the act of dog fighting is done in secret, thus, making it hard for the laws to be enforced. This not only would show that individuals could get away with dog fighting as long as they do it in secret but also label it as “educational” and sell it. This clearly has the tendency to incite illegal activity. If individuals know that they can partake in an illegal activity, do you not think that will influence them to continue in their unusual and cynical interests of dog fighting?

## **C. Conclusion**

The comparison between the illegal acts of dog fighting and hunting is an invalid argument. There is hardly any comparison that can be made between the two. Dog fighting should be continued to be seen as an illegal activity, the respondent proved a valid point by saying knowing of the dog fighting is tough because it is done in secret. However, Stevens made his public, perhaps carrying out the sanctions already brought on to Stevens would show to the other individuals participating in dog fighting the possible consequences they could face. The decision made by the United States Court of Appeals should be overturned; bringing Stevens, as well as, many other participants in dog fighting closer to reality in the idea that dog fighting is illegal and shall not be protected under the First Amendment.

Respectfully Submitted,

Please serve:

JOSHUA MERLENBACH

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