



OFFICE OF THE ATTORNEY GENERAL

Catherine Cortez Masto, *Attorney General*

100 N. Carson Street
Carson City, Nevada 89701-4717
Telephone - (775) 684-1100
Fax - (775) 684-1108
Web - <http://ag.state.nv.us>

**CONTACT: Edie Cartwright
775.684.1189**

OP ED –

PICKETING MILITARY FUNERALS – HONORING THE WAR DEAD VS FIRST AMENDMENT RIGHTS

By Attorney General Catherine Cortez Masto

It is a proud tradition.

Families see loved ones don the uniform of a branch of the U.S. Armed Forces and, amid hugs and kisses, march off to defend the freedom of this great nation.

Sadly, sometimes these same members of the military are delivered home in flag-draped caskets accompanied by an honor guard into the arms of their families – this time grieving the loss of a son or daughter, a husband or father, a niece, nephew, cousin – who has paid the ultimate price in order for us to remain safe and free.

And what does it say about a country that grieves along with those families and whose heart is equally as broken as it sees its young men and women make this supreme sacrifice?

It says that we as a country, as a people, join a tradition of honoring our war dead that stretches for generations, across cultures and national borders. In cemeteries and final resting places throughout this country, these brave souls are laid to rest with dignity and not forgotten by a thankful country that gives honor to them through national holidays and days of remembrance such as Memorial Day.

But what about a small segment of the population who chooses to use its First Amendment right of freedom of speech to make a personal statement against a government or an organization and use the solemn occasion of a military funeral to make its point? These citizens wish to spread their displeasure in the most public way and realize their voices will be heard loudly – positively or negatively – through the disruption of one of the most emotional ceremonies.

Such a balance of the rights of a grieving family against a group who wishes to use the occasion of their grief to make a statement has been brought before the U.S. Supreme Court in *Snyder vs Phelps*.

The issue concerns the right of a group to picket and protest at military funerals. The United States Court of Appeals for the Fourth Circuit ruled against the privacy of the family and in favor of the protest group. The brief before the U.S. Supreme Court raises the question: May the States protect the privacy and emotional health of grieving families from the psychological terrorism of persons who target such families with hostile picketing at funeral and internet postings that include personal attacks on the families and their deceased children?

The dignity and sanctity of burial rites predate the U.S. Constitution. States have a compelling interest in protecting the sanctity and privacy of funerals, both to honor deceased citizens and to support and comfort grieving families and friends.

In addition, common law has long provided protection for private citizens in cases involving harmful speech. In *Snyder vs Phelps*, the target of the picketing and internet postings were not the general public but, rather, a deceased soldier and his father mourning the loss of his son. The father, as a private citizen, had no connection to the protestors' world views.

A war is a matter of public concern, but that does not give protestors license to personally attack every soldier and every soldier's family. A soldier killed in the line of duty and his grieving family are not public officials or public figures. Through targeted picketing, the protestors' emotional terrorism of the grieving family ensured that their son could not be laid

to rest in peace, with the full dignity and respect he deserved and his family could not grieve in peace with the sanctity and privacy they deserved.

I support the position of the grieving family in this matter and hope the U.S. Supreme Court upholds the right of all soldiers who have paid the ultimate price while protecting our nation's freedom to have the dignity of a peaceful burial surrounded by friends and family. We, as grateful citizens, owe them at least that much.