



Written by [Steve Byas](#) on October 23, 2017

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NFL Anthem Protests Are Not a First Amendment Issue

Recent comments on CBS' *NFL Today* program are illustrative of a common misunderstanding of the purpose of the Bill of Rights, particularly the First Amendment's protection of free speech. Bill Cowher commented on the decision of the Pittsburgh Steelers to not participate in the National Anthem: "Whether you're kneeling and whether you are standing it's an individual right."



Former Dallas Cowboys receiver Michael Irvin added that President Donald Trump was denouncing players who were just "exercising their First Amendment right."

It is true that freedom of speech is protected in the First Amendment, but that protection is from the government. The First Amendment states clearly that Congress shall make no law abridging the freedom of speech. Most of the reactions to Trump's remarks (that owners should fire players who refuse to participate in the Anthem) miss the point that an owner of an NFL team would be perfectly within his rights to remove a player from the field, and ultimately dismiss him from their team.

The reality is that individuals are fired every day in America for their political or social views. Brendan Eich, the CEO of Mozilla, was forced out because he had donated money to the referendum in California (Proposition Eight) that had placed into the state's constitution that marriage is between one man and one woman.

People on the Left tended to support that firing, arguing that the expression of such views can hurt the public image of the company.

But when it comes to dismissing players for refusal to stand during the National Anthem, many of these same individuals argue that this cannot be done because it would somehow be a violation of their free speech rights, protected by the First Amendment.

In the face of mounting criticism from much of its fan base, the NFL has chosen to hide behind this common misunderstanding of the First Amendment. Yet when the Dallas Cowboys wanted to wear a decal on their helmets during the 2016 season to honor the five police officers murdered in their city during a Black Lives Matter rally, the NFL nixed the plan. They argued that they could not allow it because the wearing of decals was against their strict rules of putting extra material on helmets. But some have noted the hypocrisy of the NFL in this matter because they had allowed the Green Bay Packers to wear decals on their helmets to commemorate the 50th anniversary of Lambeau Field.

Photo: AP Images

Players are required to wear jerseys and attend press conferences — and stand respectfully during the playing of the National Anthem. The NFL has chosen to not enforce its own rule, but it would be perfectly within its rights to do so.

Most business owners actually do respect their employees' political views (unlike the liberals at



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Mozilla), and judge them by their job performance instead. However, in a free country, they do not have to do so. After all, business owners have their rights, too, and they would not want an employee to irritate paying customers, which is apparently happening with the kneeling protests and many fans, who are the NFL's customers.

After all, should a restaurant owner be required to allow a waiter to walk around with a shirt sporting profanity, or support for a political cause or a political candidate, causing many customers to eat elsewhere? While the business owner would probably not care what political activity the employee engages in during his own time, he understandably does not want such controversial activity in the workplace. And it would be his right to forbid it.

Yet when it comes to the NFL and its players, many commentators actually assert that the league's most visible employees should be able to use their workplace (the stadium) to make very public social and political commentary, even at the risk of alienating many fans who simply want to watch a football game — fans who might well opt to do something else with their time and entertainment dollars.

Finally, what about Trump's right to express his opinion? After all, he was not calling for the players to be fined or jailed (which would be a violation of the First Amendment), but rather to be dismissed. Since Trump has no legal authority to say, "You're fired!" as he did on his popular TV show, *The Apprentice*, he is simply exercising his freedom of speech, like any other U.S. citizen. And while those who dislike his comments have their own right to criticize him, they are betraying their ignorance when they give the impression that players have a constitutionally protected right to protest and be protected from being fired by the NFL, or even be shielded from criticism.

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