

Is this perjury?

Chris Potts, Ling 130a/230a: Introduction to semantics and pragmatics, Winter 2019

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1 The case

From Solan and Tiersma's *Speaking of Crime*, p. 213:

The defendant, Samuel Bronston, was president of Samuel Bronston Productions, Inc., a movie production company. He had personal as well as company bank accounts in various European countries. His company petitioned for bankruptcy. At the bankruptcy hearing, the following exchange occurred between the lawyer for the creditor and Bronston [who was under oath —CP]:

Q Do you have any bank accounts in Swiss banks, Mr. Bronston?

A No, sir.

Q Have you ever?

A The company had a bank account there for about six months, in Zurich.

The facts: Bronston earlier had a large personal bank account in Switzerland for five years, where he had deposited and drawn checks totalling more than \$180,000.

2 The issue before us

Imagine that we are at a subsequent perjury trial, in which the issue is whether or not Bronston perjured himself. Solan and Tiersma summarize the legal definition of perjury (p. 212–213):

Perjury consists of lying under oath: having sworn to tell the truth, the witness speaks falsely. It is a serious crime, since false testimony may cause the innocent to go to prison or allow the guilty to go free.

It is not normally a crime to lie. To commit perjury, a person must first have taken an oath to testify truthfully. Federal law also requires that the person “willfully and contrary to such oath states or subscribes any material matter which he does not believe to be true.” This is often called the “false statement” requirement. Perjury involves asserting or declaring that a particular state of affairs exists (or existed in the past), when the speaker knows that not to be the case. If the speaker did not know that the actual and asserted state of affairs were different, she would have made a mere mistake.

Not only must the accused make a false statement, but it must be material. If the false statement relates to a minor matter or something that is unlikely to influence a trial or other official proceeding, it does not constitute perjury, even though we might still call the statement a lie.

The issue is *not* whether Bronston should get in trouble for other crimes, or for being a poor human being, or anything beyond the perjury question, and we can't change the perjury law above to convict or free him.

3 A related case

U.S. v. DeZarn (6th Circuit Court of Appeals)¹. DeZarn was asked whether a 1990 party was a political fundraiser, and he answered “No”. He was charged with perjury. He appealed on the grounds that the fundraiser under discussion was in 1991. His appeal was denied:

ROSEN, District Judge. This appeal calls upon us to clarify the law of this Circuit as to whether a person may be found guilty of perjury where he gives sworn testimony which, from the context of the questioning and circumstances surrounding the investigation, can reasonably be inferred to be knowingly untruthful and intentionally misleading, even though the specific question to which the response is given may itself be imprecise.

Because we believe that the crime of perjury depends not only upon the clarity of the questioning itself, but also upon the knowledge and reasonable understanding of the testifier as to what is meant by the questioning, we hold that a defendant may be found guilty of perjury if a jury could find beyond a reasonable doubt from the evidence presented that the defendant knew what the question meant and gave knowingly untruthful and materially misleading answers in response. Accordingly, for the reasons more fully developed below, we affirm the Defendant’s conviction and sentence in this case.

¹<http://cases.justia.com/us-court-of-appeals/F3/157/1042/578206/>