

N.J. Supreme Court makes shield law protection absolute

The New Jersey Supreme Court unanimously held that under the state's shield law prosecutors cannot compel a reporter to testify in court even to answer limited questions about material that was already published.

The ruling basically makes the shield law's protection of reporters "absolute" when it concerns the prosecution in a criminal case, said Thomas Cafferty, an attorney for the New Jersey Press Association who was active in the case.

The ruling affirmed that reporters "can't be called [by the state] to answer questions on what was published," Cafferty said, even if all the prosecution wants to ask is if the published material were true.

"That would open the door to all kinds of cross-examination by the defense," he said. "The court recognized that problem."

The court said that in light of the amendments to the shield law, it is clear that the New Jersey Legislature

wanted to establish the strongest possible protections from compulsory testimony for the press. This is particularly true of testimony sought by the state, the court said, adding that legislative action in related areas also shows a desire to give the press increased protection from the state.

The verdict reversed a ruling by the Appellate Division saying the reporter could be forced to testify about information which had been published.

The shield law case involved the trial of Gary Mayron, who was charged with the kidnapping and murder of a 17-year-old girl. At the trial the state sought testimony from reporter Evan Schuman, whose accounts of telephone interviews with Mayron were published in the *New Jersey Herald* on April 8 and 10, 1986 — five weeks prior to Mayron's indictment for murder.

The April 8, front-page story stated that Mayron had said in the interview that he had sexual relations with the

victim before beating her to death. The April 10 story elaborated on the killing.

Schuman sought to quash to prosecution's subpoena that he testify at the March 1987 trial on grounds that information being sought had been obtained exclusively in the course of pursuing his professional duties and was protected by the shield law.

At the hearing on the motion to quash the subpoena, the prosecution said it sought to introduce only the specific statements made by Mayron that were reported by Schuman in the articles. The prosecution said its sole purpose was to obtain sworn, in-court statements establishing that Mayron had said what was quoted in the article so the accused's statements could be introduced into evidence under two hearsay exceptions: admissions and declarations against penal interest.

The trial court held in favor of Schuman and quashed the subpoena