**IN THE WEST VIRGINIA CIRCUIT COURT FOR RIDGE COUNTY**

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| **STATE OF WEST VIRGINIA** | ) | |
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| **Plaintiff,** | ) | |
| | ) | |
| **v.** | ) | **Case No. 80381** |
| | ) | |
| **JESSICA LAWRENCE** | ) | |
| | ) | |
| **Defendant.** | ) | |
| | ) | |

**MEMORANDUM OPINION AND ORDER**

October 4, 2004

GILROY, District Judge:

The State has asked this court to issue a contempt citation against Jessica Lawrence, who refused to testify before the Ridge County Grand Jury convened to investigate possible criminal conduct. Ms. Lawrence argues that her status as a reporter for a college newspaper confers the privilege not to testify according to both West Virginia state law and the First Amendment. This Court finds no merit in these arguments and accordingly enters judgment in favor of the State. Ms. Lawrence is hereby held in contempt.

## I. FACTUAL BACKGROUND

The facts of this case are not in dispute. All parties have stipulated to the following statement of the relevant facts.

Hackney is a town of 17,000 residents located in Ridge County in northern West Virginia. Except for Hackney, which is the county seat, Ridge County is rural and sparsely populated. The primary employer in Ridge County is the Empire Steel Corporation, which

operates a large steel mill on the banks of the Blackwater River in Hackney. Many of the households in Ridge County have at least one member who is employed at the Empire mill, and most of the small businesses in Hackney depend heavily on customers who are the families of Empire employees. The taxes paid by the Empire mill provide approximately 87% of the total annual municipal budget of Hackney and approximately 71% of the annual budget of Ridge County.

Blue Mountain State College (hereinafter "BMSC") is a four-year college located in the town of Ida, West Virginia. Ida is the county seat of Green County, which is immediately adjacent to Ridge County. The Mountain Echo is a student newspaper published by the students of BMSC each week. The Echo is operated entirely by students and funded entirely by BMSC funds with the exception of a small amount of advertising revenue from Ida businesses. The student staff of the Echo is allowed virtually complete editorial autonomy by the BMSC administration, and the Echo's finances are only loosely monitored by an assigned faculty advisor. The Echo is distributed through numerous free news racks throughout the BMSC campus and the towns of Ida and Hackney.

During the events giving rise to this case, Jessica Lawrence was the student editor of the Echo and also served as one of its the several student reporters. At the time of these events, Ms. Lawrence was a twenty-four year old junior at BMSC. Ms. Lawrence had lived with her parents, both BMSC professors, in a rural section of Ridge County from her earliest years until she graduated from the county high school in Hackney. As a high school student, she had become interested in environmental issues and the Sierra Club, and developed an intense concern about the massive environmental damage in West Virginia caused by the coal strip-mining method commonly known as "mountain topping" (i.e., removing the entire mountain top down to the

coal seam and pushing the millions of cubic yards of overlying earth and rock into adjacent valleys and streams). Prior to enrolling at BMSC, Ms. Lawrence worked for almost three years as a clerical staff member for the Sierra Club in Washington D.C. Because of Ms. Lawrence's dedication to environmental causes, the Echo regularly ran news articles and editorials focused on the questionable environmental practices of various businesses and governmental agencies in that area of West Virginia. The Echo's reporting on environmental issues had garnered several awards and commendations from national media organizations prior to the events in question here.

The events giving rise to this case began with an investigation by the West Virginia Department of Environmental Quality of Empire's steel mill in Hackney. The investigation was triggered by rumors that the Empire mill was routinely discharging airborne pollutants into the air in violation of state and federal law by operating at full capacity when its air scrubbers were disabled or were shut down for maintenance. It also was rumored that the mill's waste cooling water regularly was allowed to enter the Blackwater River without passing through the mill's settlement and filtering system as required by state and federal law. The West Virginia DEQ investigation concluded that illegal untreated air and water discharges probably had occurred on several occasions at the Empire mill. As a result, Empire entered into a settlement with the DEQ that provided for a payment to the state of $400,000 with no admission of guilt by Empire and with an agreement by Empire to initiate more rigorous monitoring and reporting procedures.

The DEQ investigation and its results were followed closely by the residents of Hackney and Ridge County who feared that the Empire mill might be shut down either temporarily or permanently. The investigation, coupled with the rumors about the mill closing, fueled an intense interest in the issue, and was the subject many front-page news articles in the Hackney

Herald, Hackney's daily newspaper. In addition, the Herald published several editorials that were sympathetic to Empire and distinctly hostile to the state DEQ. When the investigation concluded, the Herald prominently featured an editorial congratulating Empire for the fact that there was no formal finding or admission of guilt.

Several weeks after the conclusion of the DEQ investigation, Jessica Lawrence was contacted at the Echo by a mid-level management employee of the Empire mill who requested and received a promise from Ms. Lawrence of absolute anonymity. In reliance on that promise, the Empire manager informed Ms. Lawrence that Empire's actual response to the DEQ investigation and the settlement agreement was not the more rigorous monitoring and reporting procedures to which Empire had agreed. Instead, the manager asserted that Empire had adopted a variety of covert technical measures and fraudulent reporting procedures to make its illegal air and water discharges virtually impossible to detect. Although Ms. Lawrence was not able to find any source that could corroborate the Empire manager's allegations, she was able to confirm the identity of the manager and the fact that he/she was in a position at Empire where he/she might know of the kinds of activity alleged. On this basis, Ms. Lawrence published in the Echo a news article reporting the allegations and an editorial calling for a further state or federal investigation.

Shortly after publishing the news article and editorial in the Echo, Ms. Lawrence received from the Ridge County District Attorney's office a grand jury subpoena commanding her to appear before the Ridge County Grand Jury to disclose the name of her anonymous source and to produce any notes or documents concerning her investigation of the alleged illegal activities at the Empire mill. Ms. Lawrence promptly notified the Ridge County District Attorney, Dean Hansen, that the identity of her source and the contents of her notes were confidential and that she would not disclose either to the Grand Jury. Immediately after receiving Ms. Lawrence's

notice that she would refuse to reveal the identity of her source or produce her investigative notes, District Attorney Hansen filed this action seeking a contempt citation against Ms. Lawrence and seeking the imposition of sanctions until she agreed to comply with the terms of the subpoena.

In response to District Attorney Hansen's motion, this Court ordered Ms. Lawrence to appear and show legal cause why she should not be held in contempt of court. Ms. Lawrence then appeared in this Court and repeated her refusal to disclose the identity of her source and her refusal to produce her notes and documents relating to the Empire story. Ms. Lawrence concedes that under West Virginia law she is subject to a subpoena issued in Ridge County, but she asserts that she is protected under state law and the First Amendment of the U.S. Constitution in her refusal to disclose the requested information.

## II. OPINION AND ORDER

The question of a reporter's privilege under the First Amendment was answered over 30 years ago in *Branzburg v. Hayes*. 408 US 665 (1972). In that case a journalist sought to refrain from answering questions before a criminal grand jury. The U.S. Supreme Court held that a person's status as a news reporter did not confer on him any special immunity, and that a reporter who refuses to testify may be held in contempt just like any other witness. Ms. Lawrence has failed to differentiate her own refusal to testify from the refusal in *Branzburg*. This Court sees no reason to depart from the Supreme Court's holding in *Branzburg*.

Ms. Lawrence offers a state law basis for her refusal as well, under *Hudok v. Henry*. 182 W.Va. 188 (1989). Although that case recognized a qualified privilege for reporters in the state of West Virginia, the proceeding at issue was an administrative hearing, not a criminal investigation. That case is hardly on point. In the case of a criminal investigation, the State's

interest in prosecuting criminals and protecting its citizens from crime far outweighs the reporter's tenuous privilege not to reveal the names of her sources. Ms. Lawrence's argument fails on state grounds as well.

This Court hereby finds Ms. Lawrence to be in contempt of court and orders that she shall serve ninety days in the county jail. The Court suspends the ninety-day jail sentence pending the outcome of any appeals that Ms. Lawrence might file, or until the passage of the thirty-day period in which appeals may be filed.

**IN THE WEST VIRGINIA SUPREME COURT OF APPEALS**

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|---|---|---|
| **STATE OF WEST VIRGINIA** | ) | |
| **Appellee** | ) | |
| | ) | |
| **v.** | ) | **Case No. 05-0918** |
| | ) | |
| **JESSICA LAWRENCE** | ) | |
| **Defendant-Appellant.** | ) | |
| | ) | |

**MEMORANDUM OPINION AND ORDER**

June18, 2005

BEFORE Halbert, Hicks,
Stewart, West Virginia Supreme Court of Appeals Justices

**STEWART, J. delivered the opinion of the Court, in which HALBERT, C.J., joined. HICKS, J., filed a dissenting opinion.**

Justice STEWART delivered the opinion of the Court.

This case comes to us from the Ridge County Circuit Court. The Circuit Court held Jessica Lawrence ("Lawrence") in contempt of court for her refusal to obey a grand jury subpoena ordering her to disclose the identity of the anonymous source relied upon in her Empire steel mill stories and ordering her to produce her investigative notes for that story. The Circuit Court rejected Lawrence's claims that compelled disclosure of the identity of her source and compelled production of her notes would violate West Virginia law establishing reportorial privilege and would violate the freedom of the press guaranteed by the First Amendment of the U.S. Constitution. The Circuit Court imposed a jail term of ninety days as a punishment for Lawrence's contempt, although the sentence was suspended pending the outcome of any appeal

that Lawrence might file. Lawrence has filed this appeal in a timely manner. For the reasons set forth below, the decision of the Circuit Court is affirmed.

The uncontested facts of this case as summarized by the Circuit Court in its written opinion are adopted herein by reference. This case raises important state law and federal constitutional issues, and we review the legal conclusions of the Circuit Court *de novo*. *Bose Corp. v. Consumers Union*, 466 U.S. 485, 499 (1984); In re Morrissey, 168 F3d 134, 135 (4th Cir. 1999). We affirm the Circuit Court findings that Lawrence was not privileged under state law or under the First Amendment as interpreted by the U.S. Supreme Court in *Branzburg v. Hayes*, 408 U.S. 665, 667 (1972).

Our analysis of whether Lawrence's nondisclosure is protected by state law is governed by this Court's decision in *Hudok v. Henry*, 182 W. Va. 500, 501 (1990). Under the *Hudok* test, "disclosure of a reporter's confidential sources or news-gathering materials may not be compelled except upon a clear and specific showing that the information is highly material and relevant, necessary or critical to the maintenance of the claim, and not obtainable from other available sources." *Id.* at 505.

As a preliminary matter, we have serious doubts about whether Lawrence, as a student editor of a student newspaper, even qualifies as a news gatherer or reporter of the type protected by West Virginia's privilege doctrine. We need not resolve that question, however, because we agree with the Circuit Court that Lawrence's claim of privilege fails to meet the two-prong *Hudock* test. First, the identity of Lawrence's source is "highly material and relevant, necessary…to the maintenance of the case." *Id.* The identity of the source is highly material to a grand jury inquiry into potential criminal wrongdoing at the Empire steel mill. Second, the information is "not obtainable from other available sources." *Id.* While the Court understands the

need to protect the constitutional interests of a free press, a reporter's privilege may nonetheless have to "yield in proceedings before a grand jury where the reporter has personal knowledge or is aware of confidential sources that bear on the criminal investigation." *Id*.

Lawrence's second claim was that she was protected by the Freedom of the Press Clause of the First Amendment from forced disclosure of the identity of her source and from forced production of her reporter's notes. Our analysis of this claim is controlled by the U.S. Supreme Court's decision in *Branzburg v. Hayes*. 408 U.S. 665, 667 (1972). The Supreme Court in *Branzburg* held that reporters called before criminal grand juries are required to reveal the names of the sources relied upon in articles pertaining to criminal activity. The majority held that the media is not entitled to any special First Amendment protection against a government's demand for information that any other citizen would be obligated to supply. *Id.* at 687-689. Moreover, when the Supreme Court of the United States was asked to grant news-gatherers a "testimonial privilege that other citizens do not enjoy," it declined to do so. *Id*. at 690.

The dissent in this case points out that several federal circuit courts have relied on Justice Powell's concurring opinion in *Branzburg* to require a heightened sensitivity to First Amendment concerns and a balancing of the state's interest against those concerns before allowing the government to coerce the disclosure of a reporter's confidential sources or a reporter's investigative notes. S*ee, e.g., Cusumano v. Microsoft Corp*., 162 F.3d 708 (9th Cir. 2001); *In re Special Proceedings*, 373 F.3d 37 (1st Cir. 2004); *In re Petroleum Products*, 680 F.2d 5 (2nd Cir. 1982); *Cervantes v. Time*, 464 F.2d 986 (8th Cir. 1972); *Silkwood v. Kerr-McGee Corp*., 563 F.2d 433 (10th Cir. 1977). In addition, Lawrence argues that *Branzburg* does not control the outcome in this case because the facts of this case are distinguishable from *Branzburg* in several significant respects. Specifically, Lawrence argues that unlike *Branzburg*,

neither she nor her source were guilty of the criminal acts being investigated, that unlike *Branzburg*, there are many other ways that the grand jury could have obtained the desired information about the criminal activities under investigation, and unlike *Branzburg*, this subpoena may be intended to deter insiders from disclosing the questionable activities of an extremely popular employer in Hackney. Nonetheless, we have concluded that *Branzburg* stands for the general proposition that there is no special privilege for news-gatherers. Thus, *Branzburg* requires that we reject Lawrence's claim of privilege under the First Amendment, just as the Circuit Court below rejected that claim.

For the foregoing reasons, the decision of the Circuit Court is affirmed.

**HICKS, J., dissenting.**

Freedom of the press is a "fundamental personal right." *Lovell v. City of Griffin*, 303 US 444, 450 (1938). As such, any act of the government tending to diminish that right ought to be scrutinized carefully. The majority has chosen not to do so, and instead has applied a standard so overly broad that literally no member of the press could legitimately refrain from revealing a confidential source when asked, regardless of the government's motives. Accordingly, I must dissent.

Prior to addressing the substantive aspects of this case I must first respond to my colleagues' suggestion that Ms. Lawrence does not qualify as a journalist. The Supreme Court has declined thus far to provide a specific and exhaustive list of those aspects of news reporting that qualify a person for First Amendment protection under the freedom of the press clause. In *Branzburg*, however, the majority stated that "almost any author may *quite accurately assert* that he is contributing to the flow of information to the public." *Branzburg v. Hayes*, 408 US 665,

705 (1972) (emphasis added). It would be extremely presumptuous of *this* Court to intimate that, although we have no precise definition of the scope of this particular First Amendment protection, *we* are fairly sure that Ms. Lawrence's actions must fall outside of it. While arguments favoring a narrow definition of "the press," are reasonable, only the narrowest of classifications would exclude Ms. Lawrence in her capacity as editor and reporter at the Echo.

The *Lovell* decision established that "the press in its historic connotation comprehends every sort of publication which affords a vehicle of information and opinion." 303 US at 452. Certainly none of my colleagues would suggest that the Echo disseminates neither information nor opinion. Further, the publication is produced in tangible form, on a weekly basis, using the same materials and printing methods as the New York Times and the Wall Street Journal. It would not be credible to suggest that either of those distinguished newspapers would not meet the definition of "the press" as intended by the Framers. The Constitution does not require that the "press" must be nationally renowned, widely circulated, and in operation for commercial purposes. Indeed, the *Branzburg* majority points out that traditionally "liberty of the press is the right of the lonely pamphleteer who uses carbon paper or a mimeograph just as much as of the large metropolitan publisher who utilizes the latest photocomposition methods." 408 US at 704. Should we be confronted with a modern "lonely blogger," we may be compelled to consider more closely the definition of the word "press." We are not, however, confronted with such a person or publication. Ms. Lawrence is well within the traditional bounds of the "press" for the purposes of state law and the First Amendment.

I agree with the majority that the holding of *Branzburg* lawfully restricts the press insofar as the government, in pursuing a criminal investigation, may subpoena witnesses to testify before a grand jury, whether or not they are members of the press. *Id.* This holding, however, applies to

a much narrower set of circumstances than those before the court today. Indeed, as evidenced by the varied interpretations that the *Branzburg* case has been subject to among the circuits, as well as our own decisions in *Hudok v. Henry* and its progeny, the majority's failure to consider the facts of this case results in the trammeling of the Petitioner's First Amendment rights. 182 W.Va. 188 (1989); *see generally, Bruno & Stillman, Inc. v. Globe Newspaper Co.*, 633 F.2d 583 (1st Cir. 1977); *In re Petroleum Products*, 680 F.2d 5 (1982); *Silkwood v. Kerr-McGee*, 563 F.2d 433 (10th Cir. 1977); *US v. Ahn*, 231 F.3d 26 (DC Cir. 2000); *US v. Burke*, 700 F.2d 70 (2d. Cir. 1983); *US v. LaRouche Campaign*, 841 F.2d 1176 (1st Cir.); *Zerilli v. Smith*, 656 F.2d 705 (D.C. Cir. 1981).

Had my colleagues given Ms. Lawrence's situation more than a perfunctory inspection, they would clearly have seen that this case is not on all fours with *Branzburg*. Truly, no reasonable person would be able to read that opinion without understanding the Court's intention to disallow a reporter's privilege when subpoenaed under *certain circumstances*. However, that ruling should not and has not been applied broadly, as is appropriate when a citizen's First Amendment rights are at risk.

It is well established that restrictions on constitutional rights must be implemented by the least restrictive means, and only when a compelling state interest can be shown. *Branzburg v. Hayes*, 408 US at 740 (Stewart, J. dissenting); *see, e.g., Freedman v. Maryland*, 380 US 51, 56 (1965); *NAACP v. Alabama*, 377 US 288, 307 (1964). Although I certainly do not assert that the state's interest in investigating crime is anything less than compelling, I am far from convinced that subpoenaing Ms. Lawrence is the least restrictive means by which that investigation could be completed. It appears, instead, that Ms. Lawrence has been involuntarily drafted into the investigatory arm of the government for the purpose of providing the information that State

actors are unwilling to investigate. This type of "fishing expedition" is, in my view, both unconstitutional and unconscionable. *See Branzburg*, 408 US at 744, FN 4 (Stewart, J., dissenting).

There is an obvious solution to the matter of uncovering the identity of Ms. Lawrence's source: the police, the grand jury, or Empire Steel itself, could easily question each Empire employee at the management level about any conversations they may have had with Ms. Lawrence. The government's unwillingness to do so demonstrates at best laziness, and at worst the kind of bad faith and ulterior motives that can serve to undermine a grand jury presumed to have been rightfully impaneled as an investigatory tool of the government. "The Court fails to recognize that under the guise of 'investigating crime' vindictive prosecutors can, using the broad powers of the grand jury which are, in effect, immune from judicial supervision, explore the newsman's sources at will, with no serious law enforcement purpose." *Id.* (Stewart, J., dissenting). Without such purpose, the subpoena of a news reporter cannot fail to be a violation of the First Amendment.

This court's ruling today ensures that no journalist has the right, at least in the state of West Virginia, to decline to reveal the identities of her anonymous sources under any circumstances. This ruling, however, is contradictory to the holding of *Branzburg*, which recognized certain exceptions to the general rule that was announced in that case. The majority's decision today will ensure that all subpoenaed journalists are forced to choose between testifying and irreparably foreclosing their confidential sources, and staying silent, thereby incurring contempt citations. This holding will be applied indiscriminately, just as *Branzburg* has been applied indiscriminately today: whether or not the information is "material," whether or not the government has attempted to find out the information via "other sources," whether the

investigation is criminal or civil, and indeed, even whether or not the proceeding is instigated in bad faith. Even the majority opinion in *Branzburg* allowed for the quashing of a subpoena if it has not been issued during "a good-faith grand jury investigation." 408 US at 708. Justice Powell further emphasized that when a "grand jury investigation is not being conducted in good faith," a reporter must be granted privilege. *Id.* at 710 (Powell, J., concurring).

Even if no bad faith is evident in a particular situation, Justice Powell's opinion strongly suggests that lower courts are free to consider "asserted claims to privilege… on a case-by-case basis." *Id*. In fact, Justice Powell stated that "if the newsman is called upon to give information bearing only a remote and tenuous relationship to the subject of the investigation, or if he has some other reason to believe that his testimony implicates confidential source relationships without a legitimate need of law enforcement, he will have access to the court on a motion to quash." *Id.*

Furthermore, the majority of circuits have enacted a balancing test that serves to provide qualified privilege to reporters in situations of this nature. Three factors, first identified in Justice Stewart's dissent in *Branzburg*, are applied in multiple federal jurisdictions. A reporter's claim of privilege can be overcome only when a court is persuaded that the information being sought from the journalist is: (1) highly material and relevant, (2) necessary or critical to the maintenance of the legal claim, and (3) not obtainable from any other available resources. *See Bursey v. United States*, 466 F.2d 1059 (9th Cir. 1972); *Cervantes v. Time;* 464 F.2d 986 (8th Cir. 1972); *Cusumano v. Microsoft Corp.*, 162 F.3d 708 (1st Cir. 1998); *In re Petroleum Products*, 680 F.2d 5 (2nd Cir. 1982); *Riley v. City of Chester*, 612 F.2d 708 (3rd Cir. 1979); *Miller v. Transamerican Press, Inc.*, 621 F.2d 721, 725 (5th Cir. 1980); *Silkwood v. Kerr-McGee Corp.*, 563 F2d 433 (10th Cir. 1977); *US v. Caporale*, 806 F.2d 1487, 1504 (11th Circuit 1986); *Zerilli v.*

*Smith*, 656 F.2d 705 (D.C. Cir. 1981). This balancing test has also been adopted and expanded by the Department of Justice, which has published guidelines to that effect, 28 CFR § 50.10, that are also included in the United States Attorney's Manual, § 9-2.161. Although these guidelines are not legally binding, they are meant to be followed by attorneys representing the federal government. It is difficult to envision a stronger endorsement of the balancing approach.

The facts of this case are easily differentiated from those of *Branzburg*. Ms. Lawrence witnessed no crime; instead, she spoke with an employee who was brave enough to step forward and blow the whistle in spite of the risks inherent in such action. The record reflects no evidence that the government attempted to discover the identity of Ms. Lawrence's source via any other avenue before subpoenaing her and citing her for contempt. In fact, the record reflects very little evidence supporting the government's contention that the identity of Ms. Lawrence's source is even necessary for the ongoing investigation into Empire Steel's environmental compliance practices, or that the identity is highly material and relevant to the investigation. Curiously, the issue presented to the Circuit Court bears a striking resemblance to the issues one might see in a case addressing a corporation's attempt to silence a whistleblower. While I do not wish to cast aspersions on Ridge County or its prosecutor, the influence that the Empire Steel Company has on the citizens of Hackney suggests that this subpoena may be intended more to intimidate whistleblowers than to investigate Empire.

The majority's opinion today essentially eviscerates the First Amendment's guarantee of freedom of the press. *See Branzburg*, 408 US at 681 ("Without some protection for seeking out the news, freedom of the press could be eviscerated.") Such severe limits on a reporter's ability to gather news, including news from sources whose confidentiality must be maintained (and who, we can assume, have compelling reasons to wish to remain confidential), will doubtless

serve to hamper the ability of the press to disseminate important information. The press serves as a valuable watchdog and thus as a check on the actions of those we elect to public office. Without the wide diffusion of such news, the governed would have no way of distinguishing between truth and propaganda. As impartial observers of the governing and the governed, reporters bear the responsibility of communicating with clarity those issues that may affect future decisions.

Applying so broad a restriction on the freedom of West Virginia's media will no doubt render the First Amendment nearly worthless. When there are other means by which the State may achieve its desired and necessary ends, actions that restrict the freedom of the press so severely as to threaten its very existence must not be tolerated. Judges, similarly, are meant to be impartial and impervious to political and social pressure. Only from the bench can the Constitution be adequately safeguarded from the tyranny of the majority.

For the foregoing reasons, I would reverse the decision of the Circuit Court and vacate the contempt citation. I respectfully dissent.

**IN THE**

**SUPREME COURT OF THE UNITED STATES**

**No. VU-SUP 2005**

**Jessica Lawrence, Petitioner**

**v.**

**The State of West Virginia, Respondent**

September 30, 2005

Case Below

_____W.Va._____ (N. Cir. Ct. 2004)
_____W.Va _____ (Sup. Ct. App. 2005)

Petition for Writ of Certiorari to the
West Virginia Supreme Court of Appeals is **GRANTED.**

The issues before the court are:

(1) Whether the First Amendment provides a college newspaper reporter either absolute or qualified privilege to refuse to reveal the identity of a confidential source before a Grand Jury?

Arguments will be heard on an expedited basis. The Petitioner Jessica Lawrence shall present argument first.

**USEFUL CASES**

*Bose Corp. v. Consumers Union*, 466 U.S. 485, 499 (1984)
*Branzburg v. Hayes*, 408 US 665 (1972)
*Freedman v. Maryland*, 380 US 51, 56 (1965)
*Jaffee v. Redmond*, 518 US 1 (1996)
*Lovell v. City of Griffin*, 303 US 444, 450 (1938)
*NAACP v. Alabama*, 377 US 288, 307 (1964)
*Saxbe v. Washington Post*, 417 U.S. 843(1974)
*United States v. Zolin*, 491 US 554 (1989)
*Zurcher v. Stanford Daily*, 436 U.S. 547 (1978)

*Baker v. F&F Investment*, 470 F.2d 778 (2nd Cir. 1972)
*Bruno & Stillman, Inc. v. Globe Newspaper Co.*, 633 F.2d 583 (1st Cir. 1977)
*Bursey v. United States*, 466 F.2d 1059 (9th Cir. 1972)
*Cervantes v. Time;* 464 F.2d 986 (8th Cir. 1972)
*Cusumano v. Microsoft Corp.*, 162 F.3d 708 (1st Cir. 1998)
*Gonzales v. National Broadcasting Co.*, 194 F.3d 29 (2d Cir. 1999)
*In re Grand Jury Proceedings, Storer Communications*, 810 F.2d 580 (6th Cir. 1987)
*In re Grand Jury Subpoena, Miller*, 405 F.3d 17 (D.C. Cir. 2005)
*In re Petroleum Products*, 680 F.2d 5 (2nd Cir. 1982)
*In re Special Proceedings*, 373 F.3d 37 (1st Cir. 2004)
*In re Williams*, 766 F. Supp. 358 (W.D. Pa. 1991)
*Miller v. Transamerican Press, Inc.*, 621 F.2d 721, 725 (5th Cir. 1980)
*Riley v. City of Chester*, 612 F.2d 708 (3rd Cir. 1979)
*Silkwood v. Kerr-McGee*, 563 F.2d 433 (10th Cir. 1977)
*United States v. Ahn*, 231 F.3d 26 (DC Cir. 2000)
*United States v. Burke*, 700 F.2d 70 (2d. Cir. 1983)
*United States v. Cuthbertson*, 630 F.2d 139, 147 (3d Cir. 1980)
*United States v. Caporale*, 806 F.2d 1487, 1504 (11th Circuit 1986)
*United States v. LaRouche Campaign*, 841 F.2d 1176 (1st Cir.)
*University of Pa. v. EEOC*, 493 U.S. 182 (1990)
*Zerilli v. Smith*, 656 F.2d 705 (D.C. Cir. 1981)

*Charleston Mail Ass'n v. Ranson*, 488 S.E.2d (W. Va. 1997)
*Gold Coast Publications, Inc. v. State*, 669 So.2d 316 (Fla. App. 4 Dist. 996)
*Hudok v. Henry*, 389 S.E.2d 188 (W. Va. 1990)
*In re Letellier*, 578 A.2d 722 (Me. 1990)
*Outlet Communications, Inc. v. State*, 588 A.2d 1050 (R.I. 1991)