

Nevada Shield Law Upheld; Reporter Does Not Have to Testify

A federal magistrate judge in Nevada held that “the plain language” of the state’s reporter shield law confers an “absolute privilege,” protecting a reporter from disclosing sources and other newsgathering information in a Jan. 30, 2009 ruling.

U.S. Magistrate Judge Peggy Leen issued the order in a defamation case filed by billionaire casino mogul Sheldon Adelson against a former employee, Moshe Hananel, The Associated Press (AP) reported Feb. 3, 2009. The decision means *Las Vegas Sun* reporter Rick Velotta will not have to testify at a deposition related to the suit.

In 2004 Velotta wrote about a disagreement in Israel between Adelson and Hananel about money the casino operator allegedly owed his employee for help with gambling operations in Macau, the *Sun* reported February 3. Adelson later filed the defamation suit against Hananel in Las Vegas, calling the Macau claim “preposterous on its face” and accusing Hananel of making false statements about their relationship in interviews with Velotta and other Las Vegas media members.

The *Sun* reported that Adelson’s attorney filed court papers in December saying that he wanted to question Velotta about matters the attorney contended were not covered under the shield law, such as the reporter’s education, experience, and news gathering practices, as well as the news gathering practices of the *Sun*.

But Leen rejected Adelson’s request, stating that this was “merely an attempt to obtain indirectly what Adelson may not obtain directly under” the shield law. At the request of *Sun* attorney Mitchell Langberg, Leen quashed the subpoena requiring Velotta to give the deposition.

Nevada’s shield law, Nev. Rev. Stat. § 49.275, states in part that “No reporter, former reporter or editorial employee of any newspaper, periodical or press association or employee of any radio or television station may be required to disclose any published or unpublished information obtained or prepared by such person in such person’s professional capacity in gathering, receiving or processing information for communication to the public, or the source of any

information procured or obtained by such person, in any legal proceedings, trial or investigation . . . before any court, grand jury, coroner's inquest, jury or any officer thereof"

According to a February 3 AP story, Leen's order cited Nevada Supreme Court rulings and "the plain language" of the state's reporter shield law, which she said confers an "absolute privilege from disclosure" of sources and information.

In 2000, Nevada's Supreme Court overruled previous precedent and interpreted the state's shield statute broadly in *Diaz v. Eighth Judicial Dist. Court ex rel. County of Clark*, 993 P.2d 50 (Nev. 2000), stating that "the news shield statute provides an absolute privilege to reporters engaged in the newsgathering process."

The *Diaz* court stated that the rationale behind the statute was "to enhance the newsgathering process and to foster the free flow of information encouraged by the First Amendment to the U.S. Constitution," and that it "serves an important public interest and provides absolute protection against compelled disclosure to ensure that through the press, the public is able to make informed political, social and economic decisions."

A federal district court in Nevada also previously held the state's shield law provides broad protection for reporters in the 1985 case *Newton v. National Broadcasting Co.*, 109 F.R.D. 522 (D. Nev. 1985). The court held that television reporters did not have to reveal the names of confidential sources in a libel suit against NBC television. The court determined that the Nevada legislature had "made a decision to favor the public's interest in access to information over an individual's interest in vindicating his reputation in a defamation action."

Sun Managing Editor Michael Kelley said the magistrate judge "made the right ruling in this case."

"The *Sun* will always battle to uphold the free press principles embodied in the Nevada reporters' shield law," Kelley said in the February 3 *Sun* story. "Any efforts to misuse our reporters will be vigorously opposed."

Langberg said he was "not surprised" by the decision and that "it was right, given the iron-clad nature of the Nevada shield law," according to a February 6 story by the Reporters Committee for Freedom of the Press.

The *Sun* reported that Adelson's attorney did not return calls regarding whether he will file a challenge to Leen's order with Senior U.S. District Judge Edward Reed Jr., who is presiding over the defamation suit.

The Silha Center *Bulletin*
Winter 2009: Volume 14, No. 2

— Jacob Parsley
Silha Research Assistant