

REPORTER GUILTY IN CONTEMPT CASE

**Caldwell of Times Is Cited
for Refusal to Testify**

NY TIMES

SAN FRANCISCO, June 5 —

Earl Caldwell, 32 years old, a reporter for The New York Times, was found guilty today of civil contempt by Federal District Judge Alfonso J. Zirpoli for refusing to testify before a grand jury investigating Negro militant organizations.

Judge Zirpoli allowed Mr. Caldwell to remain free pending appeal of his contempt order. The judge did so despite objections of Victor C. Woerheide, an assistant United States attorney.

The order required that Mr. Caldwell be held in jail until he testified or the grand jury finished its inquiry and was dismissed.

"The object of civil contempt is to force compliance," Mr. Woerheide argued. "If he is at large pending appeal, that will vitiate the court's finding of contempt."

Judge Zirpoli said he would allow Mr. Caldwell to remain free but asked the reporter's attorneys to expedite the appeal.

The grounds of the appeal will be the same as those raised earlier in argument for a motion to quash the subpoena, according to Anthony Amsterdam, a Stanford University law professor, who is one of Mr. Caldwell's lawyers.

First, it will be argued that Mr. Caldwell's First Amendment privileges will be abridged if the Government is permitted to force him to testify about knowledge he gained while gathering material for the newspaper.

Second, Mr. Amsterdam will continue to seek a court order requiring the Government to reveal if it subpoenaed Mr. Caldwell because of information picked up in an electronic surveillance of the Black Panthers, a Negro militant group.

Judge Zirpoli followed his earlier rulings today and refused to act on these arguments, which were first made in April during attempts to quash an earlier grand jury's subpoena.

In that matter, Judge Zirpoli ruled that Mr. Caldwell must appear before the grand jury. But the judge also held that the reporter should have continual access to legal advice during his testimony and that he could not be required to testify about information given him in confidence.

The judge applied that ruling

to the present subpoena, which was dated May 22.

Affidavits filed in connection with the earlier case said Mr. Caldwell, a black man, had been assigned to the New York Times bureau here to write about black militant groups as well as other subjects.

Mr. Caldwell was in court today and responded to Judge Zirpoli's questions by affirming that he did not intend to appear before the grand jury.