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A REPORTER WINS RIGHT TO APPEAL

Refuses to Name Informant
in Washington Libel Suit

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WASHINGTON, July 7 — A Federal district judge granted a Washington newsman today the right to appeal a ruling that would require him to name a news source in a \$10-million libel suit or face a possible summary judgment and punishment for contempt of court.

Judge Howard F. Corcoran temporarily stayed his own ruling of June 7, that the reporter, A. Britton Hume, must identify by name an informant in the Washington headquarters of the United Mine Workers of America.

Judge Corcoran, at his own discretion, agreed to allow the appeal to the United States Court of Appeals for the District of Columbia, even though he said, "I disagree with this position." The Court of Appeals could refuse to hear the case.

Lawyers here said they believed it was the first time in a civil damage suit that a journalist had asserted the right to protect the identity of a news source under the First Amendment to the Constitution, which guarantees freedom of the press.

Three cases involving reporters refusal to identify news sources under grand jury subpoena in criminal cases, rather than civil matters, are pending before the United States Supreme Court, which has never ruled on the issue.

One is the case of Earl Caldwell, a reporter in San Francisco for The New York Times, who refused to appear before a Federal grand jury there after he was subpoenaed to produce tape recordings, notes and other records of interviews with leaders of the Black Panther movement.

The United States Court of Appeals for the Ninth Circuit later ruled that the First Amendment shielded Mr. Caldwell from disclosing his sources unless there was a compelling need for his testimony. The Justice Department has appealed to the Supreme Court to force his appearance.

Court Ruling Cited

In the two other cases, Paul Brenzburg, a reporter for The Louisville Courier-Journal, and Paul Pappas, a reporter cameraman for WTET-TV, a New Bedford, Mass., television station, have appealed to the Supreme Court. They seek relief from orders by state courts in Kentucky and Massachusetts that they be compelled to disclose before state grand juries the identities of sources alleged to have engaged in crimes.

In the case here, Mr. Hume's lawyer, Warren Woods, said after the hearing that if Judge Corcoran had insisted on disclosure of the source without allowing an appeal, his client would nonetheless have declined. Mr. Hume could then have faced the prospect of a summary damage judgment for lack of a defense of the libel action and imprisonment for contempt of court, or both, the lawyer said.

Mr. Woods reminded Judge Corcoran today of the three pending appeals. He also cited the Supreme Court's 6-to-3 finding on June 30 that the Federal Government could not restrain The New York Times and The Washington Post from publishing the Pentagon archives on the history of the war in Vietnam. Both newspapers had refused to disclose their sources.

The lawyer's argument was that, since other Federal courts had upheld the protection of news sources by reporters in criminal "and even in national security cases," Judge Corcoran could hardly do less in a purely civil matter.

The suit, in a pretrial stage, includes a \$1.5-million defamation claim against Mr. Hume, by Edward L. Carey, general counsel of the United Mine Workers. The union and its top officers are under a number of different Federal investigations.

Mr. Hume is a reporter for the syndicated "Washington Merry-Go-Round" column of Jak Anderson.

Mr. Carey filed his suit last Dec. 14, the day that the Anderson column reported that Mr. Carey and W. A. Boyle, the union president, had "spent several hours recently going through records" at the union headquarters and that "later, they were seen removing box-fuls of documents from Boyle's office."