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NEWSMAN RULING APPEALED BY U.S.

High Court Urged to Force Reporter to Face Jury

WASHINGTON, July 19 — The Justice Department asked the Supreme Court today to require a newspaper reporter to appear before a grand jury even if the Government has not shown that there's a "compelling need" for the reporter's presence.

The Government's argument was made in a brief filed in the case of Earl Caldwell, a reporter from The New York Times, who refused to testify in an investigation of the Black Panther party.

Mr. Caldwell, who is black, was held in contempt of court last year after he did not appear before a San Francisco grand jury that was investigating the Panthers, whom Mr. Caldwell had covered and written about extensively.

Mr. Caldwell argued that his mere appearance in secret would lead the Panthers, who had confided in him to fear that he had betrayed confidences. To require his presence, he said, would violate the First Amendment's guarantee of freedom of the press.

Appeals Court Support

This position was upheld last November by the United States Court of Appeals for the Ninth Circuit, which declared that Mr. Caldwell could not be required to testify unless the Government could demonstrate a "compelling need" for his appearance.

In seeking a reversal of the appeals court's ruling, the Government declared that to require proof of need would seriously interrupt the investigative functions of a grand jury.

The Government, in its brief, referred to "the firmly established policy of grand jury secrecy" and stated that Mr. Caldwell's refusal to answer a subpoena undermined "the traditional investigative function of that body."

Mr. Caldwell's fear that his presence in secrecy would destroy the trust his sources had in him is "imaginary and insubstantial, not real and appreciable," the Government said.

The Caldwell case is expected to be heard by the Supreme Court in its next term, which begins in October.