

STATE OF NORTH CAROLINA
COUNTY OF GASTON

IN THE GENERAL COURT OF JUSTICE
SUPERIOR COURT DIVISION
No. 10 CRS 2160

STATE OF NORTH CAROLINA,
v.
MICHAEL LANE MEAD,
Defendant,
FREEDOM COMMUNICATIONS,
INC., d/b/a THE GASTON
GAZETTE AND JULIE MORENO
Respondents.

ORDER

THIS MATTER CAME ON FOR HEARING before Superior Court Judge Calvin E. Murphy on July 27, 2010, upon the Objection to Subpoena and Motion to Quash Subpoena filed by Respondent Freedom Communications, Inc., d/b/a *The Gaston Gazette* (hereinafter referred to collectively as “The Gazette”) and Julie Moreno. The Motion seeks an order to quash a subpoena issued by the Defendant to Julie Moreno, Publisher of The Gazette. The State was represented at the hearing by Bill Stetzer, Esq. and Deborah Gullede, Esq.; the Defendant was represented by Lisa Andrew Dubs, Esq.; and the Respondent was represented by John A. Bussian, Esq. The Court, having considered the subpoena issued by the Defendant, the Objection to Subpoena and Motion to Quash Subpoena filed by the Respondent, and the arguments of counsel, makes the following findings of fact:

1. The Gazette is a daily newspaper of general circulation in Gaston County. In addition to its print news publications, The Gazette also publishes news and information of local, state, and national interest on its Internet website, www.gastongazette.com (The Gazette's website).

2. Julie Moreno is and was at all material times a journalist employed by The Gazette, engaged in the business of gathering, compiling, writing, editing, photographing, recording, or processing information for dissemination via a news medium.

3. The subpoena directs Moreno to appear and produce information and records related to an Internet poster to The Gazette's website including, but, not limited to, the IP address, e-mail address, name, physical address, and any other identifying information collected by The Gazette from a particular individual ("justicen2010") who registered to comment on The Gazette's website. The subpoena further seeks the contract between The Gazette and Demand Media (Pluck), an Internet comment forum management company.

4. Neither The Gazette nor Moreno is a party in this criminal proceeding.

The Court's conclusions of law are as follows:

1. The North Carolina Shield Law applies to the facts recited above. N.C. Gen. Stat. § 8-53.11 (the "Shield Law"). Moreno is a "journalist" within the meaning of N.C. Gen. Stat. § 8-53.11(a)(1).

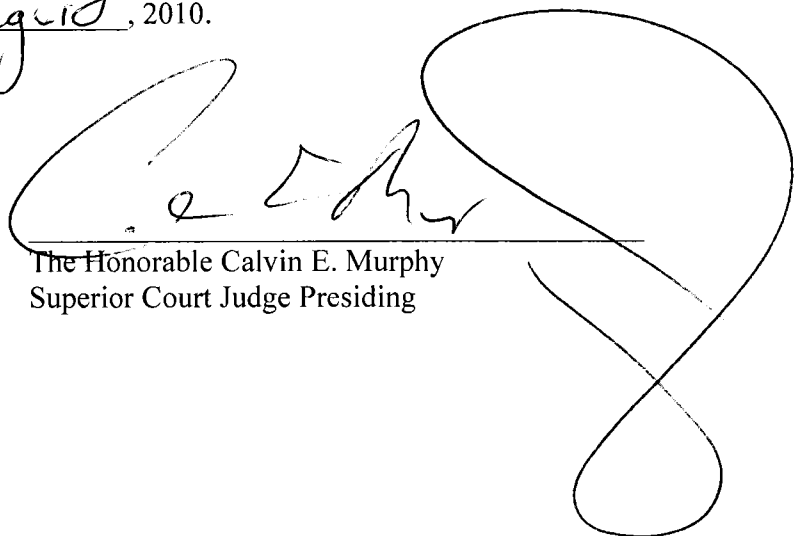
2. The information sought by the Defendant in the subpoena is confidential information related to The Gazette's and Moreno's newsgathering and news publishing activities and was obtained while Moreno was acting as a "journalist," all within the meaning of the Shield Law. Therefore, The Gazette and Moreno have a qualified

privilege against compelled disclosure of Internet posters' IP addresses, e-mail addresses, names, physical addresses, and other identifying information collected by The Gazette from posters to its website and against compelled disclosure of The Gazette's agreement with Demand Media or any other Internet comment forum management company. N.C. Gen. Stat. § 8-53.11(b).

3. The Defendant failed to meet the burden required to overcome the qualified privilege set forth in the Shield Law by demonstrating clearly and specifically that the information and documents sought (1) are relevant and material to the proper administration of the legal proceeding for which the testimony or production is sought, (2) cannot be obtained from alternative sources, and (3) are essential to the maintenance of a claim or defense of the person on whose behalf the testimony or production is sought. N.C. Gen. Stat. § 8-53.11(c).

IT IS THEREFORE ORDERED, ADJUDGED and DECREED that Respondent's Objection to Subpoena and Motion for Order to Quash Subpoena is GRANTED.

This, the 16 day of August, 2010.



The Honorable Calvin E. Murphy
Superior Court Judge Presiding