

Source of ‘Leak’ to Reporter Not Relevant to Murder Trial

How and from whom a reporter obtained information, including police and toxicology reports, is not relevant to a murder trial, so it was error for the trial court to require that the sources be disclosed, an Illinois Appellate Court found.

Joseph Hosey was a reporter for the Joliet Patch. The news website ran several stories describing in detail the strangling deaths of two males. Four people were charged in connection with the murders.

One of those charged sought the source for Mr. Hosey’s articles and requested that the court strip Mr. Hosey of the Illinois reporter’s privilege, which protects a reporter’s source unless there is no other source for the information and the information is relevant to the matter. The court granted the request. When Mr. Hosey did not disclose the source, he was found in contempt and fined. He appealed the court’s ruling.

All of the documents in the case were sealed. The trial court noted that “if the source of the information to the reporter is an attorney or a member of the staff of any of the attorneys involved in this matter, that the Supreme Court rules relative to discovery have clearly been violated.” The trial court reviewed 500 affidavits from individuals who all denied they were the source of the leak. Thus, the court said, there was no other source to find out who leaked the information.

As to relevance, the trial court said disclosing the source of the articles “is relative to a determination of whether or not the Rules regarding the secrecy of the Grand Jury proceedings and the Rules of the Illinois Supreme Court have been intentionally violated by individuals who are subject to the rules.”

The appellate court said the trial court erroneously focused on whether the leak violated the Illinois Supreme Court rules. However, “the proceeding in which the information is being sought is a criminal prosecution for first degree murder,” the appellate court opinion states. “[a]s a matter of statutory construction, relevance to such collateral matters is not sufficient to satisfy section 8-904’s threshold requirement that the sought-after information be relevant to the proceedings in which it is being sought.”

“Because the identity of Hosey’s source cannot be said to relevant [sic] to a fact of consequence to the first degree murder allegations, we hold that the circuit court erred when it granted the motion for divestiture,” the appellate court said in reversing the trial court on both requiring disclosure and the contempt finding against Hosey.

State of Illinois v. Bethany McKee, 2014 IL App (3d) 130696, filed Dec. 15, 2014.