1973 S.C. Op. Atty. Gen. 348 (S.C.A.G.), 1973 S.C. Op. Atty. Gen. No. 3661, 1973 WL 21112

Office of the Attorney General

State of South Carolina
Opinion No. 3661
November 13, 1973

***1 1. A judge of the magistrate court may not lawfully exclude a working press or broadcasting reporter from an open trial or hearing at the request of the prosecution or defense.**

2. A judge of the magistrate court may not, at the request of the prosecution or defense, order a working press or broadcasting reporter attending an open trial or hearing not to report for publication or broadcasting statements and/or actions that were made and/or done in open court.

3. A judge of the magistrate court may not order a working press or broadcasting reporter to submit a story obtained at an open trial or hearing to the judge for review and approval as a condition for permission for publication or broadcasting.

4. A judge of the magistrate court may lawfully require that a pool working press or broadcasting reporter be selected to cover an open trial or hearing as the representative of all of the news organizations.

Director
Judicial Education
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Thank you for your letter of October 9 requesting the opinion of this Office on the questions set forth below, following each of which I have submitted an answer.
1. Can a judge of the magistrate court lawfully exclude a working press or broadcasting reporter from an open trial or hearing at the request of the prosecution or the defense?

Answer: No. The Constitution of this State provides that 'all courts shall be public—.'
2. Can the judge of the magistrate court, at the request of the prosecution or the defense, lawfully order a working press or broadcasting reporter attending an open trial or hearing not to report for publication or broadcasting statements and/or actions that were made and/or done in open court?

3. Can the judge of the magistrate court lawfully order a working press or broadcasting reporter to submit a story obtained at on open trial or hearing to the judge for review and approval as a condition for permission for publication or broadcasting?

Answer: No. Whatever transpires in the courtroom is public property and those who see and hear it may report it without judicial censorship.
4. Can the judge of the magistrate court lawfully require that a pool working press or broadcasting reporter be selected to cover an open trial or hearing as the representatives for all of the news organizations?

Answer: Yes. A judge has the right, as well as a duty, to preserve the decorum and dignity of his court. If the presence of large numbers of the press or other news media with their various equipment would serve to disrupt the proceedings or affect the calmness and solemnity of the courtroom to such a way as to impede the proper conduct of judicial proceedings, the number

of the press permitted in the courtroom may be limited. The same is true with respect to the attendance of other members of the public who are not connected with the press.

The conclusions set forth above are based upon a number of authorities, some of which are set forth below with appropriate excerpts from the opinions rendered by the courts.

***2** 'The press does not simply publish information about trials but guards against the miscarriage of justice by subjecting the police, prosecutors, and judicial processes to extensive public scrutiny and criticism. This court has, therefore, been unwilling to place any direct limitations on the freedoms traditionally exercised by the news media for 'what transpires in the courtroom is public property." *Craig v. Harney*, 331 U.S. 367, and *Sheppard v. Maxwell*, 384 U.S. 333.

'Every court that has had an occasion to rule upon the freedom of the press to publish court proceedings has held that whatever transpires in the courtroom is public property and those who see and hear it may report it without judicial censorship.' *Wood v. Goodson*, 485 S.W. 2d 213.

'The number of reporters in the courtroom itself could have been limited at the first sign that their presence would disrupt the trial.' *Sheppard v. Maxwell* at 358.

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