

Free Press Reporter Allowed to Submit Confidential

Digital Media and Data Privacy Law Blog

on 04.28.2009

Posted in Reporters Privilege

We have been closely following the saga of Detroit Free Press reporter David Ashenfelter and his efforts to avoid being forced to reveal the confidential source of information concerning former federal prosecutor, Richard Convertino. The former prosecutor is attempting to sue the Justice Department under the federal Privacy Act.

Last week the judge in the case, District Court Judge Robert Cleland, allowed Ashenfelter to submit a confidential affidavit explaining the basis for Ashenfelter's fears that he might face criminal prosecution if forced to reveal his source.

As we have previously reported, Ashenfelter, who is not a party to Convertino's lawsuit, had invoked the Fifth Amendment in a last-ditch effort to avoid testifying, but the judge ruled that the reporter would have to provide a fuller justification for his fears of criminal prosecution. Ashenfelter then asked the court to allow him to testify in camera or to submit a confidential affidavit.

The judge's decision allowing the confidential affidavit preserves -- at least temporarily -- the confidentiality of Ashenfelter's source.