

Texas Court Protects Anonymous Posters

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A Texas court has ruled that the *Abilene Reporter-News* does not have to reveal the identities of anonymous posters who submitted online commentary concerning a murder defendant to an Abilene newspaper's website. According to the *Reporter-News*, the anonymous posters' identities had been sought by the defendant's attorney to ensure that none of the posters were selected to sit on the jury for the murder trial, which began on June 23.

The Taylor County District Court's decision to protect the posters' identities, which was issued on July 19, is one of the early applications of the newly enacted Texas shield law. (We previously reported on the Texas shield law in civil and criminal proceedings.) At least in this case and one other reported on by the Reporter's Committee for Freedom of the Press, it appears that the Texas trial courts are ably applying the statutory privilege, which just took effect in May 2009.

According to the *Reporter-News*'s coverage, the defendant's attorney argued that his client's interest in a fair trial outweighed the newspaper's interest in protecting the identities of the posters. However, in addition to arguing that the shield law protected the commenters' identities from disclosure, the *Reporter-News* also argued that the defendant's right to a fair trial could be adequately protected by questioning prospective jurors during jury selection.

The Texas court joins a growing number of jurisdictions that have declined to require website publishers from disclosing the identities of anonymous posters. We have covered a number of those outcomes over the past several months, including cases from Maryland and Pennsylvania.

Although the case law in favor of protecting anonymous posters' identities from disclosure is growing, the cases are not uniformly in that direction, as pbs.org's Mediashift has recently discussed.