

Solidarity Statements

Contra Cabal 880-11-01

Jonathan Tasini, President, National Writers Union (NWU-US); Aidan White, General Secretary, International Federation of Journalists (IFJ-EU); and, about nine hundred journals in Europe; published details of the illegal imprisonment of an NUJ/NWU/IFJ journalist. In contrast, Reginald (Tim) Gopsill, Editor, *Journalist* (NUJ magazine) ordered an absolute media blackout. That blackout has lasted for seven years and prevented NUJ members from offering solidarity to a union member of sixty years standing, a constituent of Gareth Thomas MP (West Harrow); a junior labour government minister and NUJ benefactor. By that, Dear, Thomas, and successive NUJ lawyers in a direct conflict of interest neglected to provide member or constituent support guaranteed by Trade Union and Labour Relations (Consolidation) Act 1992.

Jonathan Tasini, President, National Writers Union (NWU) wrote:

"Paul Trummel, a member of the Seattle local, has been in jail since (27 Feb 02). He is charged with contempt of court by James Doerty, a King County Superior Court judge, who says Trummel is not a legitimate investigative reporter because he edits and publishes his own work.

This message comes to ask you to help Paul Trummel by seeking his release and, at the same time, help yourself and your colleagues by standing up for your status as a freelance writer. . . . Doerty's ruling strikes at the legitimacy of every freelancer who is not attached to a specific publisher or periodical.

According to the transcript (19 Apr 01), . . . Doerty said, " . . . It is my finding specifically that his claim to be a journalist is a bogus claim insofar as he has no useful journalistic purpose. . . . He is not employed by anybody but himself, there is no publisher involved, there is no press involved, there is merely the misguided use of an obviously well-developed talent. . . ."

The judge ordered Trummel held until he takes down a web site on which he accuses management of a Department of Housing and Urban Development-subsidized senior housing project of various improprieties. Trummel instead moved his web site to a server outside the United States [Holland], with a notice to Washington State residents not to read the material.

The National Writers Union deplores any judgment that denies freelance writers the status of journalists simply because they publish their own work. The First Amendment applies to all writers, regardless of their employment status. Trummel should be freed immediately without requiring that he censor his publication.

Independent writers are having an increasingly difficult time preserving their rights to do their work. In a recent Massachusetts case, community reporter Patricia Demarest went to court after a public access cable TV company suspended her for airing a broadcast in which she grilled local officials about conflicts of interest. In that case, a federal judge ruled (05 Mar 02) that freelance journalists have the same rights as those employed by news outlets.

Last year freelance book author Vanessa Leggett was jailed on civil contempt charges for 169 days after refusing to disclose interview material she gathered under a promise of confidentiality. The judge who jailed her said she was not a real journalist because she had never published a book. Leggett is out of jail now. Her case is headed for the US Supreme Court.

Independent journalists are crucial to our society's ability to understand daily events that they might not otherwise read or hear about. Any erosion of the rights of independent writers to do their work undermines the free flow of information”.

Aidan White, General Secretary, International Federation of Journalists (IFJ) made the following comment about the case which European media widely published:

“The judge has advanced the dangerous argument that this freelance has no professional status because he edits and publishes his own work. If this argument is upheld it is a threat to reporters everywhere, particularly those who live in the real world of journalism which is dominated by self-starters and independent professionals.

Journalists' unions in the US and elsewhere are right to deplore any judgment that denies writers the status of journalists simply because they publish their own work. Freelance reporters must have the same professional rights as those employed by media outlets.” Referring to the journalist's solitary confinement while denied access to a prison telephone or a lawyer, White said: "This victimization has gone on for long enough".

Professor Patrick Denis Brown (WSBA 23033), Seattle University School of Law, acted *pro bono* as *amicus curiae* in Washington Supreme Court for both NUJ and IFJ at the instigation of the Journalist. Dear and Kirby (NUJ) showed no interest or even acknowledged that the hearings took place. They have for seven years maintained an absolute media blackout on the hearings which resulted in a unanimous decision by nine judges in favor of the journalist.

The linked précis relate to *amicus curiae* briefs filed with Washington Supreme Court (25 Oct 04 and 23 May 05). [*Washington Supreme Court - Abstracts*]

Brown argued before Washington Supreme Court in behalf of National Union of Journalists:

National Union of Journalists (NUJ) represents 35,000 journalists working in all media. London Freelance Branch (Local) has about 3,000 of the 6000 freelance members working nationally and internationally. A Washington State trial court infringed the freedom of expression of a freelance member by imprisoning him for exercising his journalistic and personal freedom of expression.

A veteran journalist, he worked for many years as a columnist, public relations officer, and media academic. He has spent half his life in London and half in USA. NUJ contends that the trial court committed a gross error of judgment by jailing a journalist because he would not submit to restriction of free expression enshrined in documents universally recognized by the civilized world.

Internationally notorious, this case presents an appalling spectacle. The court threw an elderly journalist into jail and forced him to endure several weeks in solitary confinement

for exercising rights guaranteed by the United States First Amendment, the United Nations Universal Declaration of Human Rights, and the United Kingdom Human Rights Act. The case raises troubling questions about freedom of expression and Internet publication.

The Internet, a medium that affords automatic global access to everything published on it, requires civilized standards of freedom of expression that transcend national boundaries. Those standards protect essential human aspiration to freedom enshrined in documents universally recognized by the civilized world no matter what regime prevails. If trial court thinking in this case forms any part of judicial response to journalistic or other expression in any country then freedom of expression could end.

Journalists often cause offense by telling the truth. The court's judgment in this case suggests that if a reader complains about offense resulting from content of a publication then they can ask for restriction or termination of the publication. Such a precedent would lead to constant prior restraint of authors and publishers, limitation of existing publications, and dominance of "official versions" of events - a travesty of the whole principle of freedom of expression.

United Nations Universal Declaration of Human Rights declares: "Everyone has the right to freedom of opinion and expression; this right includes the freedom to hold opinions without interference and to seek, receive and impart information and ideas through any media and regardless of frontiers". United Kingdom Human Rights Act addresses the same issue in nearly the same terms.

The trial court ruled that petitioner does not rank as a journalist because he self-published some of his work. If even remotely accurate, then this characterization seems far removed from national and international standards governing freedom of speech and journalism. It takes little imagination to recognize how the damaging implications in this case affect all publishing media. Even under the law of defamation a court cannot order the unconscionable sort of abuse meted to the petitioner by the trial court.

Trial court's actions in this case manifest a profound and troubling disregard for the petitioner's freedom of speech. Court of Appeals reasoning represents a real and direct threat to the freedom of thought and expression on which journalism depends. A free press forms an integral part of the very foundation of democratic institutions.

Brown argued before Washington Supreme Court in behalf of International Federation of Journalists:

International Federation of Journalists (IFJ), the world's largest journalists' group, represents more than 500,000 reporters, editors, and creators working in all sectors of media worldwide, states that: appellant suffered infringement of his personal freedom of expression through restrictions imposed by a Washington State trial court. This led to his imprisonment and interference with the content of his Internet publication.

Freedom of expression, as set out in Article 19 of the Universal Declaration of Human Rights (UDHR), remains the professional right of journalists except in the most extreme cases. The agencies of the United Nations and within the democratic community of nations recognize self-regulation.

Definition of the term "journalist" varies. In some countries, the law defines the term professional journalist, establishes criteria for persons wishing to enter the profession, and sets out the legal rights and responsibilities of persons carrying out this work. We strongly dispute the attempt to discredit appellant as a journalist. The trial court's reasoning represents a real and direct threat to the freedom of thought and expression on which journalism depends.

Robert Ménard, Secretary-General, Reporters Without Borders published five recommendations for online free expression:

1. Any law about the flow of information online must be anchored in freedom of expression as defined in Article 19 of the Universal Declaration of Human Rights
2. Internet users alone must decide what material they can and wish to access online. Automatic filtering of online content, by governments or private firms, is unacceptable. Filters must only be installed by Internet users themselves and only on their personal connection. Any policy of higher-level (national or even local) filtering conflicts with the principle of the free flow of information.
3. A decision to shut down a web site, even an illegal one, must not in any circumstances be taken by the site's host or any other technical provider of Internet services. Only a judge can ban an online publication. A technical service provider cannot therefore be held criminally or civilly responsible for any illegal material posted on a hosted website unless the service provider refuses to obey a ruling by an impartial and independent court.
4. A government's civil or criminal powers are limited to content hosted on its territory or specifically aimed at the country's Internet users.
5. The editors of online publications, including bloggers and those running personal sites, must have the same protection and be shown the same consideration as professional journalists since, like them, they exercise a basic freedom, that of freedom of expression.

[Land of the Free - Seattle, Washington]

Reginald (Tim) Gopsill, Editor, Journalist (NUJ magazine) ordered an absolute media blackout supported by Jeremy Dear, General Secretary, NUJ. That blackout has lasted for seven years and prevented NUJ members from offering solidarity to a union member of sixty years standing which maliciously denied him due process of law.

Jeremy Dear, General Secretary, National Union of Journalists wrote:

Absolutely nothing; instead he orchestrated a campaign of derogation and defamation.

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