IN THE SUPREME COURT OF FLORIDA
CASE NO. 73,195
DCA 87-1903

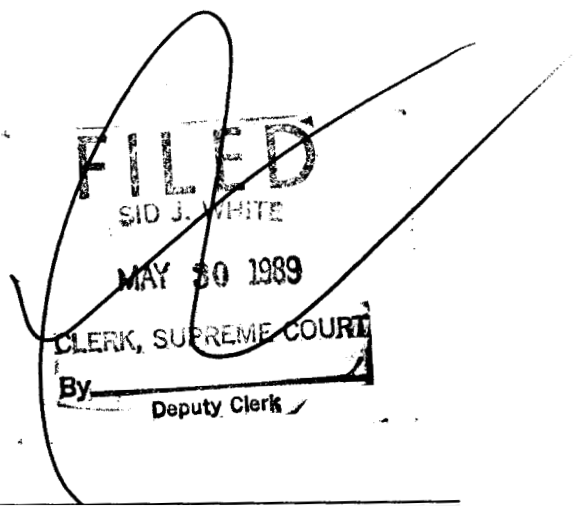
THE MIAMI HERALD PUBLISHING COMPANY, a division of Knight-Ridder, Inc. and JOEL ACHENBACH,

Petitioners,

vs.

ARISTIDES MOREJON, et al.,

Respondents.



ON REVIEW FROM THE DISTRICT COURT
OF APPEAL OF FLORIDA, THIRD DISTRICT

AMENDED REPLY BRIEF OF PETITIONERS

THE MIAMI HERALD PUBLISHING COMPANY AND JOEL ACHENBACH

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REPLY TO RESPONDENT'S STATEMENT OF THE CASE AND FACTS

Respondent's Statement of the Case and Facts contains two significant omissions. First, Morejon failed to advise this Court that his basis for claiming he did not consent to the search of his luggage is that he "is not fluent in the English language," . . . and consequently "did not understand that he had a right to refuse said search and consented to said search." (A. **15**). Second, Morejon did not acknowledge that all evidence presented in the trial court contradicts this claim. There was no evidence below that Morejon lacks fluency in English or was unable to understand what was said by the arresting officers, or that the journalist, Joel Achenbach, could provide such evidence.

The arresting officers testified they conversed with Morejon in English **(A. 193-7, 224-5, 203-5, 234-5, 237-8),** that he gave a subsequent formal voluntary inculpatory statement in English (A. **126-34),** and that he never stated he could not understand English **(A. 57, 194-5).** Morejon presented no evidence to rebut this testimony, and does not contend Joel Achenbach could do so. Morejon did not himself testify at the hearing on the Motion to Quash. He did not submit an affidavit or verify the allegations in his Motion to Suppress. He did not provide affidavits or testimony from relatives, friends, employers, business acquaintances, or anyone else who has known him during the six years he has been in this country and who could testify as to his ability to speak or understand English adequately. He did not offer testimony from his co-defendant or the agent from whom he purchased a ticket shortly

before his arrest. The claim that Morejon lacked fluency in English is based entirely on unsworn allegations in the Motion to Suppress, and there is not even an unsworn allegation that Morejon did not understand English well enough to understand what the police said to him.

Moreover, this is **not** a case where a journalist has witnessed a crime, or even a confession. Instead, Achenbach's testimony here is sought to attack the validity of the search by showing the absence of a knowing and voluntary consent. But Morejon acknowledges that the journalist could only testify as to (i) whether one word of Spanish was used, rather than exclusively English as the police testified; (ii) whether there were more consents than the police testified about; and (iii) whether the prior testimony that the police walked more quickly than Morejon in approaching him was true.[1/] Therefore, the journalist's testimony at best sought to tangentially impeach irrelevant aspects of the testimony of three other witnesses to a consent to a search which led to an arrest.

Morejon's factual omissions go to the heart of this appeal. If a criminal defendant need only file unsworn court papers to compel testimony from a news reporter who is performing the core First Amendment activity of monitoring the police,

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[1] See The Herald's Initial Brief, at pp. 4 and 46-7, for the specifics of that testimony.

then the press w 11 be subject to the routine harassment of needless subpoenas.[2/]

ARGUMENT

Morejon claims The Herald asserted a "broad-based claim of reporter's privilege with an accompanying reflexive application of a strict three-part test in all circumstances." (R. Br., at 8.) This is incorrect. The Herald asserts nothing more than the qualified privilege expressly recognized by this Court in Morsan v. State, 337 So.2d 951 (Fla. 1976) ("Morgan"), and in Tribune Co. v. Huffstetler, 489 So.2d 722 (Fla. 1986) ("Huffstetler"). Florida courts, both state and federal, uniformly apply the three-part test to determine whether the privilege prevails in particular cases. Neither the law, nor sound public policy, justifies creating a blanket "eyewitness" exception to that privilege.

I. THE UNITED STATES SUPREME COURT AND FIRST AMENDMENT JURISPRUDENCE RECOGNIZE THE QUALIFIED REPORTER'S PRIVILEGE.

Morejon argues the reporter's privilege was rejected by the United States Supreme Court in Branzburs V. Haves, 408 U.S. 665 (1972) ("Branzburg"). (R. Br. at pp. 9-19.)[3/] This

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2/ Morejon's position is especially implausible because a news reporter would surely have reported an illegal search and police perjury, had such conduct been observed.

3/ Morejon also raises a "strawman" argument that the reporter's privilege was not recognized at common law, relying on Clein v. State, 52 So.2d 117 (Fla. 1950). (R. Br. 9). This is both immaterial and false. This Court in Morsan V. State, 337 So.2d at 953, recognized the proper analysis of the reporter's privilege was not based on common law, but on the principles of Branzburs v. Haves, and Justice Powell's concurrence. In any event, post-Branzburg decisions have created a common law reporter's privilege, based on "[t]he strong public policy (continued...)

argument is without merit. It was squarely rejected by this Court in Morgan and again, less than three years ago, in Huffstetler.

A. The United States Supreme Court Recognized The Reporter's Privilege In Branzburg v. Hayes.

Morejon ignores the concurring opinion of Justice Powell in Branzburg, who along with the four dissenting justices held that the First Amendment creates at least a qualified reporter's privilege. Justice Powell stated that when a reporter seeks to quash a witness subpoena, "[t]he asserted claim to privilege should be judged on its facts by the striking of a proper balance between freedom of the press and the obligation of all citizens to give relevant testimony with respect to criminal conduct." 408 U.S. at 710 (emphasis supplied). Accord, Miami Herald Pub. Co. v. Morejon, 529 So.2d 1204, 1206 (Fla. 3d DCA 1988). Furthermore, Justice Powell agreed with Justice Stewart that the factors relevant to striking a balance are those set forth in the three-part test. 408 U.S. at 710 n. His only reservation was that the procedure specified by Justice Stewart to apply the test was too inflexible in the context of grand jury proceedings. Id. Indeed, Justice Powell clarified after Branzburg that he intended in his concur-

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[3] (...continued)
which supports the unfettered communication to the public of information, comment and opinion and the Constitutional dimension of that policy." Riley v. City of Chester, 612 F.2d 708, 715 (3d Cir. 1979); see Silkwood v. Kerr-McGee Corp., 563 F.2d 433 (10th Cir. 1977); Baker v. F&F Investment, 470 F.2d 778 (2d Cir. 1972), cert denied, 411 U.S. 966 (1973); Los Angeles Memorial Coliseum Commission v. NFL, 89 F.R.D. 489 (C.D. Cal. 1981).

rence to uphold a qualified reporter's privilege under the First Amendment. Saxbe v. Washington Post Co., 417 U.S. 843, 859-60 (1974) (Powell, J., dissenting).[4]

All but one of the Federal Circuit Courts to address the issue have read Branzburg as creating a qualified First Amendment privilege.[5]

B. The Duty To Testify Does Not Preclude The Reporter's Privilege.

Morejon then cites a number of United States Supreme Court cases which discuss the duty of a citizen to testify in judicial proceedings. (R. Br., at 14-19). Most of these cases

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4. Morejon's citations to Justice Powell's opinions in Zurcher v. Stanford Daily, 436 U.S. 547, reh'g denied, 439 U.S. 885 (1978) and Herbert v. Lando, 441 U.S. at 178, are consistent: in Zurcher, Justice Powell emphasized that his concurrence in Branzburg imposed a qualified reporter's privilege in subpoena cases based on a balancing of interests; and in Lando he reiterated only that the First Amendment does not create an absolute privilege but instead requires a balancing of interests, while concurring in the qualified privilege recognized by the majority opinion. 441 U.S. at 174.

5. Bruno & Stillman, Inc. v. Globe Newspaper Co., 633 F.2d 583 (1st Cir. 1980); United States v. Burke, 700 F.2d 70 (2d Cir.), cert. denied, 464 U.S. 816 (1983); La Rouche v. National Broadcasting Co., 780 F.2d 1134 (4th Cir.), cert. denied, 479 U.S. 818 (1986); Miller v. TransAmerican Press, Inc., 621 F.2d 721, supp. op., reh'g denied, 628 F.2d 932 (5th Cir. 1980), cert. denied, 450 U.S. 1041 (1981); Cervantes v. Time, Inc., 464 F.2d 986 (8th Cir. 1972), cert. denied, 409 U.S. 1125 (1973); Farr v. Pitchess, 522 F.2d 464 (9th Cir. 1975), cert. denied, 427 U.S. 912 (1976); Silkwood v. Kerr-McGee Corp., 563 F.2d 433 (10th Cir. 1977); United States v. Caporale, 806 F.2d 1487 (11th Cir. 1986), cert. denied, 107 S.Ct. 3265 (1987); Zerilli v. Smith, 656 F.2d 705 (D.C. Cir. 1981). The sole exception is In re Grand Jury Proceedings (Storer Communications, Inc.) v. Giovan, 810 F.2d 580 (6th Cir. 1987), which expressly found the three-part test to have been satisfied, thereby rendering its discussion of the privilege dictum. 810 F.2d at 586. To the degree this dicta disregards Justice Powell's explicit language, it is erroneous.

do not involve claims of testimonial privilege[6], and are thus irrelevant. Indeed, Morejon's argument would require the abolition of all testimonial privileges--a position expressly rejected by the United States Supreme Court. Washinston v. State of Texas, 388 U.S. 14, 18 n. 21 (1967).

The cases that do involve claims of privilege do not support Morejon. In Branzburg, a majority of the justices recognized a qualified First Amendment privilege. 408 U.S. at 682. United States v. Nixon, 418 U.S. 683, 708-9 (1974), and United States v. Burr, 25 F. Cas. 187, 192 (C.C. D. Va. 1807), recognize a qualified executive privilege. In Herbert v. Lando, 441 U.S. 153 (1979), the subpoenaed journalists were defendants in a defamation action. The Court found they could be examined about their mental impressions and editorial processes to establish the element of "actual malice." The Court did, however, recognize a qualified reporter's privilege. Id., at 174; see Miller v. TransAmerican Press, Inc., 621 F.2d at 725; Gadsden County Times. Inc. v. Horne, 426 So.2d 1234, 1240, (Fla. 1st DCA), petition denied, 441 So.2d 631 (Fla. 1983).

II. FLORIDA LAW RECOGNIZES THE QUALIFIED REPORTER'S PRIVILEGE.

Morejon next argues that Florida courts do not recognize the privilege asserted by The Herald, and that such a

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6/ Blair v. United States, 250 U.S. 273 (1919); Piemonte v. United States, 367 U.S. 556 (1961); New York v. O'Neill, 359 U.S. 1 (1959).

privilege is barred by § 90.501, Fla. Stat. (R. Br., at 19-27). Again, he is wrong.

A. Florida's Courts Recognize The Reporter's Privilege.

This Court has twice relied on the qualified reporter's privilege to quash subpoenas issued to the press. Tribune Company v. Huffstetler, 489 So.2d 722 (Fla. 1986); Morsan v. State, 337 So.2d 951 (Fla. 1976). Morejon attempts to distinguish these cases by asserting (1) they involved identification of confidential sources of information rather than the information itself, i.e., direct observations relevant to a criminal prosecution; and (2) the subpoenas in Morsan and Huffstetler were related to activity that either was not criminal or was only technically criminal. (R. Br., at 19-21). Neither assertion is valid.

In both Morsan and Huffstetler reporters were subpoenaed to testify as to their direct observation of conduct violating criminal or quasi-criminal statutes. And in Huffstetler, this Court emphasized that Morsan was **not** dependent on the technical non-criminality of the conduct at issue, or any lesser interest in obtaining journalists' testimony in non-criminal matters, citing with approval Tribune Co. v. Green, 440 So.2d 484, 486 (Fla. 2d DCA 1983), review denied, 447 So.2d 886 (Fla. 1984) which **did** apply the privilege in a criminal prosecution. Huffstetler, 489 So.2d at 723.7/

7/ At pages 21-24 of his Brief, Morejon discusses the decisions of Florida's District Courts of Appeal, which overwhelmingly have adopted and applied the qualified privilege, and have been examined in detail in The Herald's Initial Brief, at pp. 17-20. Morejon's Brief does not refute this analysis.

B. There Is No Legislative Bar To The Reporter's Privilege.

Morejon argues that the Florida legislature declined to recognize a reporter's privilege. He supports his contention with two arguments: 1) that § 90.501, the "privilege" statute, does not include a reporter's privilege; and 2) the legislature failed to enact a specific reporter's privilege. Neither argument has merit.

First, § 90.501 does not limit constitutional privileges; it expressly recognizes them:

> Except as otherwise Provided by . . . the Constitution of the United States . . . (emphasis added).

Morejon has presented no constitutional privilege cases to the contrary.[8/]

Second, a failure to enact a statutory privilege is of no significance. It does not warrant judicial "deference," (R. Br. at 24), since a review of legislative history shows none of the bills were ever even presented for a vote by either house.[9/] (App. la-7a). Where the Legislature has not acted,

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8/ Proctor & Gamble Co. v. Swilley, 462 So.2d 1188 (Fla. 1st DCA 1985) (corporate and academic privileges); Marshall v. Anderson, 459 So.2d 384 (Fla. 3d DCA 1984) (academic privilege); State v. Castellano, 460 So.2d 480 (Fla. 2d DCA 1984) (mediator's privilege); Hope v. State, 449 So.2d 1319 (Fla. 2d DCA 1984) (parent-child privilege); Girardeau v. State, 403 So.2d 513 (Fla. 1st DCA), petition dismissed, 408 So.2d 1093 (Fla. 1981) (legislator's privilege).

9 See, Florida House of Representatives Bill Nos. 72-3794, 73-92, 75-1307: Florida Senate Bill Nos. 73-193, 74-536, 75-1151, 76-0443.

m re introduction of a bill is no indication of legislative policy:

> These bills were sent to an appropriate committee, but were never reported out. It does not appear whether the bills died because they were thought to be unnecessary or undesirable. No hearings were held: no committee reports were made. Under such circumstances, the failure of Congress to amend the statute is without meaning for purposes of statutory interpretation.

Order of Railway Conductors of America v. Swan, 329 U.S. 520, 529 (1947) (emphasis added).

The reason the mere introduction of a bill carries no significance is aptly illustrated by the reporter's privilege bills. The record shows that the Legislature never acted on the bills because the press opposed them. (App. 8a-19a). The press contended the privilege should be grounded on the First Amendment, not on legislative grace.[10/] The legislature's refusal to act on these bills simply has no bearing on the constitutional issue before this Court.

III. MOREJON SHOULD BEAR THE BURDEN OF MEETING THE THREE-PART TEST.

Morejon does not dispute that the Opinion below is the first Florida decision to reject the three-part test for the reporter's privilege and its attendant burden of proof. (R. Br. at 27-38). But he argues neither the three-part test

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10/ Press opposition to a statutory shield law was lead by the "Dean" of Florida Journalism, John S. Knight, in a signed editorial published March 13, 1973, by The Miami Herald, urging exclusive reliance on the First Amendment. (App. 8a). The Jacksonville Journal and many other newspapers voiced similar views. (App. 9a-16a). Many members of the Florida Press Association ultimately opposed the statutory shield law solution, and it was never seriously considered by the Florida Legislature. (App. 15a, 17a-19a).

nor its accompanying burden of proof should be recognized by this Court. As shown in The Herald's Initial Brief, at 30-35, uniform precedent is to the contrary. This Court should follow such precedent and place the burden of proof on the party seeking the testimony.[11] This is because the non-party journalist has no reasonable means of determining the need for the testimony, or the existence (or non-existence) of alternative sources, without a detailed time-consuming and expensive factual investigation rediscovering what the litigants already know, and needlessly delaying the proceedings pending completion of that investigation. See Barron v. Florida Freedom Newspapers, Inc., 531 So.2d 113, 118-19 (Fla. 1988).

Morejon mischaracterizes both the three-part test and the manner in which it has been applied by Florida courts and other jurisdictions.[12]

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[11] Rosato v. Superior Court of Fresno County, 51 Cal. App.3d 190, 124 Cal. Rptr. 427 (1975), cert. denied, 427 U.S. 912 (1976) only places the burden on the press to show California's statutory shield law applies in the first place; once it applies the burden shifts to the litigant to overcome it. Similarly, In re Promulgation of Rules Regarding the Protection of Confidential News Sources, 395 Mass. 164, 479 N.E.2d 154, 159 (1985), merely states that "those seeking to prevent disclosure sought by valid requests must make some showing that the asserted damage to the free flow of information is more than speculative or theoretical." (emphasis supplied). The validity of the request is a separate issue.

[12] The cases discussed at pp. 34-8 of Morejon's Brief are not to the contrary. Bruno & Stillman, Inc. v. Globe Newspaper Co., 633 F.2d 583, 591 (1st Cir. 1980) placed on the party seeking the testimony the initial burden of establishing the relevance of the information it was seeking from the press. Id., at 591. Similarly, in United States v. La Rouche Campaign, 841 F.2d 1176 (1st Cir. 1988), the parties seeking the reporter's outtakes were able to demonstrate a strong likelihood the outtakes contained impeaching evidence, and the unavailability of that evidence from alternative sources.

(continued...)

Last year alone, three Florida District Court decisions applied the three-part test to order disclosure. See, CBS, Inc. v. Cobb, 536 So.2d 1067 (Fla. 2d DCA 1988); Carroll Contractins, Inc. v. Edwards, 528 So.2d 951 (Fla. 5th DCA), review denied, 536 So.2d 243 (Fla. 1988); Waterman Broadcasting of Florida, Inc. v. Reese, 523 So.2d 1161 (Fla. 2d DCA 1988).[13] The three-part test is based on the common sense idea that reporters need not be compelled to disclose information they acquire while gathering news unless (1) the information is relevant to a judicial proceeding, (2) there is a compelling need for it, and (3) it cannot be obtained from alternative sources. Experience has clearly shown that without such protection the press is vulnerable to harassment by persons seeking to disrupt its newsgathering ability or, as in this case, by litigants seeking to engage in a fishing expedition. See

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[12] (...continued)
That Colorado, Georgia, Nevada and Massachusetts do not recognize a common-law reporter's privilege, and that Pennsylvania and Washington limit their privileges to confidential information, is immaterial. Not only do Nevada and Pennsylvania both have comprehensive statutory privileges (see, e.g., Laxalt v. McClatchy, 14 Media. L. Rep. 1199 (D. Nev. 1987); Altemose Construction Co. v. Building & Construction Trades Council, 443 F. Supp. 489 (E.D. Pa. 1977)), but this ignores all contrary law, including such jurisdictions as Florida, California, and New York, all of which protect both confidential and non-confidential information. See, e.g., Tribune Company v. Green, 440 So.2d 484 (Fla. 2d DCA 1983); Mitchell v. Marion County Superior Court, 37 Cal.3d 268, 690 P.2d 625 (1984); O'Neill v. Oaksrove Construction. Inc., 71 N.Y.2d 521, 523 N.E.2d 277, reh'g denied, 528 N.E.2d 1231 (1988).

[13] Federal courts have done the same. E.g., Miller v. TransAmerican Press, Inc., 621 F.2d 721 sum. ox), reh'g denied, 628 F.2d 932 (5th Cir. 1980); Carey v. Hume, 492 F.2d 631 (D.C. Cir. 1974), cert. dismissed, 417 U.S. 938 (1974); Garland v. Torre, 259 F.2d 545 (2d Cir.), cert. denied, 358 U.S. 910 (1958).

Monk, "Evid ntiary Privilege for Journa lsts' Sources, 5 Mo. L. Rev. 1, 53 n. 275 (1986). Indeed, the larger number of trial court decisions quashing subpoenas only shows the need to protect against unnecessary and unwarranted subpoenas--not a "reflexive application'' of the test. On the other hand, there are no cases in which a criminal conviction has been reversed for lack of testimony by a reporter.

Although Morejon ultimately concedes at pp. 33 and 37-8 of his Brief that Justice Powell's concurrence in Branzburq and this Court's decisions in Moraan and Huffstetler establish a qualified privilege balancing the competing interests of the litigants and the press, he proffers no guidelines, methods or tests for Florida's trial courts to employ in applying that qualified privilege. In contrast, the three-part test complies with Justice Powell's directive that trial courts consider both the litigant's need for the testimony and the burdens imposed on the press if the testimony is compelled. This Court has frequently provided guidance to trial courts in such circumstances by adopting a test which balances First Amendment interests. See, Miami Herald Pub. Co. v. Lewis, 426 So.2d 1, 6 (Fla. 1982); Barron v. Florida Newspapers, 531 So.2d at 118. It should do so again here.

IV. THERE IS NO BLANKET "EYEWITNESS" EXCEPTION TO THE REPORTER'S PRIVILEGE.

Morejon asks this Court to create a blanket exception to the reporter's privilege for that class of cases in which a newsman could give "eyewitness testimony" concerning a "rele-

vant event in a criminal case." This argument fails for four important reasons.

First, the rule of Branzburg, which has been adopted by this Court in Huffstetler and Morsan, is that the privilege must be balanced against other interests on a "case by case basis." The creation of a blanket or categorical exception to the privilege is contrary to the rule of case-by-case adjudication. Therefore it should be rejected.

Second, that the case-by-case approach would reject the blanket exception for "eyewitness testimony" can be easily seen from the fact that Branzburg, Huffstetler, and Morsan all involved "eyewitness" testimony by journalists.[14/] Yet each case recognized the privilege. Formulation of an exception based upon an "eyewitness" category is not useful to deciding reporter's privilege cases. The exception is both too broad and too narrow. It does not balance all factors needed to protect competing rights. It would require journalists to

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14/ Branzburg involved the review of four lower court decisions: Branzburs v. Pound, 461 S.W.2d 345 (Ky. Ct. App. 1970) (reporter subpoenaed and asked to identify people he saw synthesizing hashish from marijuana); Branzburs v. Meigs, 503 S.W.2d 748 (Ky. Ct. App. 1971) (reporter subpoenaed to testify about interviews with several dozen drug users and persons he saw smoking marijuana); In re Pappas, 358 Mass. 604, 266 N.E.2d 297 (1971), aff'd, 408 U.S. 665 (1972) (television newsman subpoenaed to testify about what he observed inside Black Panther headquarters); and Application of Caldwell, 311 F. Supp. 358 (N.D. Cal.), rev'd, 434 F.2d 1081 (9th Cir. 1970) (reporter subpoenaed and ordered to produce notes and tape recordings of interviews with Black Panther Party leaders pursuant to investigation of possible conspiracy to assassinate the President of the United States). 408 U.S. at 667-80. There were no further proceedings requiring the reporters to testify, or punishing the reporters for refusing to testify, in any of these cases. Goodale, Reporter's Privilege Cases, in Communications Law 1988, Vol. 2, at 21 (PLI 1988).

testify when here is no nee for them to do so: t might also preclude a reporter's testimony in circumstances in which the need for such evidence is great.

There is nothing special about "eyewitness" testimony. It certainly is not the most reliable type of evidence. It also is not a term whose conceptual contours are clear--especially when applied to a journalist's work. The three-part test requires testimony be given only where it is necessary to protect subordinating constitutional interests; the "eyewitness" rule does not. Under Morejon's rule, a journalist could be made to testify concerning a search even if 200 other witnesses were available.

Third, Morejon claims that the privilege shall not apply when a reporter has witnessed a "relevant event in a criminal prosecution." But, the crucial omissions in his brief serve to camouflage the fact that he has made no showing of relevancy at all. The journalist here can give testimony about an arrest and a search, but there is no evidence in this record that the arrest or search are relevant to any issue in this case. Although an unsworn pleading claims Morejon could not speak English well enough to consent to a search, no evidence supports the naked allegation. In fact, all evidence is against it, and there is no predicate that Joel Achenbach can support it. Yet Morejon seeks to invade the privilege to fish for the wholly implausible evidence that a newsman observed an illegal search but chose not to include it in his news story.

Finally, Morejon's brief completely ignores the most fundamental argument. The role of the press is to "moni-

tor" nd "watchd g" gove:rnmental action. Yet the protection of the privilege would be stripped away in just the circumstances in which the press performs this "structural" role. The reporter's privilege was intended to place a wall of separation between government and the press. Its purpose is to maintain a channel of information to the public free of governmental intrusion. Under the rule of law announced below, whenever the press performs its core functions under the First Amendment, it may be commandeered by the parties to a criminal prosecution, without any evidentiary showing that the testimony is relevant or necessary. That decision is wrong. Only with the independence provided by the privilege can the press "watchdog" government and serve as an integral part of our constitutional system of checks and balances.

CONCLUSION

For the foregoing reasons, the certified question should be answered affirmatively, the Opinion of the Third District should be quashed, and Judge Gross's Order should be vacated with directions that the subpoena served on Joel Achenbach be quashed.

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CERTIFICATE OF SERVICE

I CERTIFY a true copy of the foregoing Amended Reply Brief of Petitioners The Miami Herald Publishing Company and Joel Achenbach was served by mail this 26th day of May, 1989, upon:

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