

SUPREME COURT OF THE UNITED STATES

Press-Enterprise Co. v. Superior Court of Cal., County of Riverside

478 U.S. 1 (1986) · No. No. 84-1560 · Decided June 30, 1986

SUMMARY

The Supreme Court held that the First Amendment provides a qualified right of public access to preliminary hearings conducted under California law. Closure is permissible only upon specific findings that publicity poses a substantial probability of prejudice to the defendant's fair-trial rights and that reasonable alternatives to closure are inadequate. The Court reversed the California Supreme Court's judgment.

CASE DETAILS

COURT	Supreme Court of the United States
WRITING FOR THE COURT	Chief Justice Burger; Justice Brennan; Justice White; Justice Marshall; Justice Blackmun; Justice Powell; Justice Rehnquist; Justice Stevens; Justice O'Connor
JURISDICTION	Federal
DECIDED	June 30, 1986
DOCKET	No. 84-1560
DISPOSITION	reversed
PROCEDURAL POSTURE	Press-Enterprise sought a writ of mandate requiring release of the transcript of a closed California preliminary hearing. After the California courts denied relief, the Supreme Court granted certiorari to determine whether the First Amendment gives the public and press a right of access to the transcript.
STANDARD OF REVIEW	Constitutional review of the asserted First Amendment access right and the adequacy of the closure standard; mootness reviewed under the capable-of-repetition-yet-evading-review exception.
PRECEDENTIAL VALUE	Published U.S. Supreme Court precedent
PARTIES	Press-Enterprise Co. v. Superior Court of California for the County of Riverside

TOPICS

first amendment

free speech

criminal procedure

constitutional law

PRACTICE AREAS

constitutional law

criminal procedure

First Amendment access to judicial proceedings

QUESTIONS PRESENTED

1. Whether the controversy remained justiciable after the preliminary-hearing transcript was released.
2. Whether the First Amendment creates a qualified right of public and press access to California preliminary hearings.
3. What constitutional standard governs closure of a preliminary hearing when closure is sought to protect the accused from prejudicial publicity.

HOLDINGS

1. The controversy was not moot because a challenge to closure of a criminal proceeding is capable of repetition yet evading review.
2. A qualified First Amendment right of public access applies to preliminary hearings as conducted in California.
3. A preliminary hearing may be closed only upon specific, on-the-record findings demonstrating that there is a substantial probability the defendant's fair-trial right will be prejudiced by publicity that closure would prevent and that reasonable alternatives to closure cannot adequately protect that right.

KEY QUOTATIONS

"If the particular proceeding in question passes these tests of experience and logic, a qualified First Amendment right of public access attaches." (at 9)

"We therefore conclude that the qualified First Amendment right of access to criminal proceedings applies to preliminary hearings as they are conducted in California." (at 13)

"Since a qualified First Amendment right of access attaches to preliminary hearings in California under Cal. Penal Code Ann. §858 et seq. (West 1985), the proceedings cannot be closed -unless specific, on the record findings are made demonstrating that "closure is essential to preserve higher values and is narrowly tailored to serve that interest."'" (at 13-14)

"If the interest asserted is the right of the accused to a fair trial, the preliminary hearing shall be closed only if specific findings are made demonstrating that, first, there is a substantial probability that the defendant's right to a fair trial will be prejudiced by publicity that closure would prevent and, second, reasonable alternatives to closure cannot adequately protect the defendant's fair trial rights." (at 14)

FACTUAL BACKGROUND

California charged Robert Diaz with twelve murders and sought the death penalty. The preliminary hearing lasted forty-one days and involved extensive medical and scientific testimony, but the defendant presented no

evidence. At the defendant's request, the magistrate excluded the public and sealed the transcript because of national publicity and concern that only the prosecution's side would be reported; the transcript was later released after Diaz waived a jury trial.

PROCEDURAL HISTORY

A California magistrate closed a 41-day preliminary hearing at the defendant's request based on anticipated prejudicial publicity and later sealed the transcript. The California Superior Court, Court of Appeal, and Supreme Court denied Press-Enterprise's request for a writ of mandate, with the California Supreme Court holding that there was no general First Amendment right of access to preliminary hearings. The transcript was later released after the defendant waived a jury trial, but the Supreme Court held the controversy capable of repetition yet evading review and reversed.

DISPOSITION

reversed

REMAND INSTRUCTIONS

The judgment of the California Supreme Court was reversed. The source does not state additional detailed remand instructions.

CASES CITED

- *Globe Newspaper Co. v. Superior Court*, 457 U.S. 596 (1982)
- *Gannett Co. v. DePasquale*, 443 U.S. 368 (1979)
- *Press-Enterprise Co. v. Superior Court*, 464 U.S. 501 (1984)
- *Richmond Newspapers, Inc. v. Virginia*, 448 U.S. 555 (1980)
- *Waller v. Georgia*, 467 U.S. 39 (1984)
- *Hawkins v. Superior Court*, 22 Cal. 3d 584, 586 P.2d 918 (1978)
- *San Jose Mercury-News v. Municipal Court*, 30 Cal. 3d 498, 638 P.2d 655 (1982)
- *Duncan v. Louisiana*, 391 U.S. 145 (1968)
- *United States v. Burr*, 25 F. Cas. 1 (No. 14,692) (C.C. Va. 1807)
- *Douglas Oil Co. v. Petrol Stops Northwest*, 441 U.S. 211 (1979)
- *Jackson v. Denno*, 378 U.S. 368 (1964)
- *Cox Broadcasting Corp. v. Cohn*, 420 U.S. 469 (1975)
- *United States v. Procter & Gamble Co.*, 356 U.S. 677 (1958)
- *Branzburg v. Hayes*, 408 U.S. 665 (1972)
- *United States v. Johnson*, 319 U.S. 503 (1943)
- *United States v. Sells Engineering, Inc.*, 463 U.S. 418 (1983)
- *Seattle Times Co. v. Rhinehart*, 467 U.S. 20 (1984)
- *Houchins v. KQED, Inc.*, 438 U.S. 1 (1978)

- *Grosjean v. American Press Co.*, 297 U.S. 233 (1936)
- *Smith v. Daily Mail Publishing Co.*, 443 U.S. 97 (1979)
- *Landmark Communications, Inc. v. Virginia*, 435 U.S. 829 (1978)
- *Oklahoma Publishing Co. v. District Court*, 430 U.S. 308 (1977) (per curiam)
- *Nebraska Press Assn. v. Stuart*, 427 U.S. 539 (1976)
- *Cox Broadcasting Corp. v. Cohn*, 420 U.S. 469 (1975)
- *Pell v. Procunier*, 417 U.S. 817 (1974)
- *Saxbe v. Washington Post Co.*, 417 U.S. 843 (1974)

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