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Research exercise: Legal Issues Confronting the News Media Concerning Politics, Murder and Undercover Reporting

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Trial by Media: Free Press v. Fair Trial

“Defendant is entitled to his day in court, not in a stadium, city, or nationwide arena.” - Associate Justice Thomas C. Clark

Freedom of the press does not protect bias publicity preventing a fair administration of justice.

Has the media generated “massive, pervasive and prejudicial publicity” responsible for the national spectacle of the Troy Davis, Casey Anthony and Jodi Arias murder trials?

Dr. Samuel Sheppard, acquitted of second-degree murder, was denied a fair trial due to “massive, pervasive and prejudicial publicity.”

Extensive publicity jeopardizes the basic tenet of our criminal justice system; every defendant is presumed innocent until proven guilty beyond a reasonable doubt in a court of law. - U.S. v. Scrushy (2005)

Thesis:
In a death penalty murder trial, the American criminal justice system must recognize the pervasive abilities of modern media and the high probability of prejudice influence held against the accused.

Regulation of Political Broadcasting

Equal Opportunity Rule states that if a station permits one legally qualified candidate to use its facilities it must allow any other legally qualified candidates running for the same office the same use of its facilities.

Exemption to the Equal Opportunity Rule:
- Bona fide news casts
- Bona fide news interviews
- Bona fide news events
- Bona fide news documentaries.

The candidate access rule states that broadcasters must allow reasonable access or permit the purchase of reasonable airtime to legally qualified candidates.

Court Responses:
- Change of venue
- Continuance
- Jury sequestration
- Stricter courtroom governance

References:

Thesis:
The Federal Communications Commission needs to become more specific in its definition of what constitutes a use of broadcast facilities regarding equal time and they need to become looser in their definition of a legally qualified candidate.

A Legally Qualified Candidate is:
- Publicly announces candidacy
- Meets the legal qualifications of particular office
- Qualifies for place on ballot
- Makes a substantial showing or nominated by a well-known political party.

In 1987 the US Court of Appeals in DC in William H. Branch v Federal Communications Commission, ruled that newscasters were not exempt from the equal opportunity rule and that if a newscaster was running for office, the station must give equal time to the newscaster’s opponent.

References: