



Bruce Brown
Reporters Committee for Freedom of the Press
1101 Wilson Blvd., Suite 1100
Arlington, VA 22209
2 March 2013

Dear Mr. Brown:

Now that Duke has withdrawn the last of its subpoenas demanding that I turn over confidential, unpublished information relating to the book and the blog, I wanted to formally thank the Reporters Committee for Freedom of the Press for all that it did to assist me.

Duke's initial subpoenas applied to almost 80 percent of the material in *Until Proven Innocent* and as many as 450 posts at Durham-in-Wonderland. Complying with them would have given the university a road map to retaliate against every Duke employee, including faculty members, who had provided me with confidential information that was critical to my understanding events in Durham.

As an academic blogger and author who had covered the lacrosse case for several years, I was uniquely vulnerable to Duke's assault on First Amendment rights. While I had developed dozens of confidential sources, I did not have the institutional backing that can protect many newspaper reporters. Duke's tactical decision not to subpoena the book's co-author, Stuart Taylor, ensured that Stuart's then-employer, *National Journal*, would have no stake in the case. As a college professor, I obviously lacked the enormous financial resources Duke enjoyed. And over the course of my academic career, the leadership of Brooklyn College and the CUNY faculty union had made perfectly clear that their interest in defending academic freedom extends only to those who, unlike me, represent the majority viewpoint on campus.

In short, without the assistance of the Reporters Committee, I would have been wholly on my own—and a dangerous precedent would have been set that independent bloggers, even ones that all parties to a case had treated as a journalist during the controversy, could be compelled to turn over their confidential files to a powerful entity they had criticized.

The Reporters Committee stood up for me, and committee staff worked tirelessly to find me legal representation. (While the lacrosse civil suits were filed in the 4th Circuit, my case had to be handled in my home state of Maine.) The committee successfully brought me to Bingham, which agreed to take my case.

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The RCFP not merely ensured that I would have legal representation, but that I would have *quality* legal representation. It quickly became clear to me the unusual challenge I faced: Duke's lawyers, who had lived and breathed the civil case for years, had full access to the scores of depositions and thousands of case-related documents to which I as a third party would be denied. Nonetheless, within a matter of weeks (and burdened with a client who had a penchant for bombarding him with extraneous information), my attorney, Patrick Strawbridge, was fully up to speed on the case.

When we lost before a magistrate judge who blindly accepted Duke's good faith and appeared determined to ignore the First Amendment ramifications of the university's crusade, Patrick made sure I understood that he would continue to represent me as long as I wanted to pursue the case. Armed with that reassurance, the decision to appeal was obvious—and clearly paid off.

At that point, the Reporters Committee came to my assistance again, joining with all major Maine media organizations in an amicus brief that demolished Duke's argument that the university's demands were "not controversial at all." Meanwhile, Patrick penned a sensational brief (and a reply brief that exposed instances of Duke misleading the court) that set the stage for the hearing before Judge Brock Hornby.

As before, Duke sent a team of attorneys to Maine, while Patrick stood alone. But the argument was so lopsided that doubtless even Duke's lawyers left the courtroom recognizing the probability that Judge Hornby's ruling would brand one of the nation's leading research universities an enemy of the First Amendment. Duke's subsequent decision to concede by pulling the remaining subpoenas demonstrated the university's fear of the outcome.

This reversal of fortune—from the seeming inevitability of my involuntarily turning over confidential, unpublished exchanges with hundreds of sources to Duke withdrawing its subpoenas facing a ruling that likely would have tarnished the university's reputation nationally—testified to the impact that the Reporters Committee had on my case, and confirmed the high quality of the legal representation they helped me obtain. I am very, very grateful.

Sincerely,



KC Johnson
Professor of History

cc: Jon Albano

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