

THE FLORIDA STAR v. B.J.F. (1983)

PUBLISHING THE VICTIM'S NAME

FACTS

In 1983, a Florida woman reported to the sheriff's office that she had been raped. As was its procedure, the sheriff's office left a report of the alleged crime in a room used by the press. A reporter for the Florida Star brought a copy of the report to the newsroom of that paper where another reporter wrote it up for a column called Police Reports.

The story, as it ran in the newspaper, included the name of the victim of the crime. The use of the victim's name violated the policy of the newspaper, but the violation apparently went unnoticed by the editors.

More importantly, though, the use of the name of a victim of a sexual assault in a newspaper account violated the Florida law. The victim (known in this case as B.J.F.) sued the newspaper and the sheriff. The newspaper had not obtained the name by theft or fraud. It was given the name by the government. Its publication of the name, though accidental, was within its First Amendment rights.

The Florida trial court disagreed with this argument and allowed the issue to go to the jury which awarded the woman \$100,000 in light of evidence which showed that after the publication of her name, she had been subjected to harassing telephone calls related to the alleged crime.

The judgment of the trial court was upheld in the Florida state appeals courts, and the Supreme Court agreed to hear the case. Arguments in *The Florida Star v. B.J.F.* were heard by the Supreme Court on March 21, 1989.

BACKGROUND

The Supreme Court has wrestled with issues similar to this one for a number of years. These cases set up a conflict between the First Amendment right to publish and the right to privacy. In some cases it may be true that the publication of a victim's name or address may even place that person in danger.

The closest case to the present one was decided in 1975. In that case, the newspaper published the name of the deceased victim of a sexual crime after the name appeared in a grand jury indictment. The Supreme Court found in that case that the newspaper's publication of the victim's name was protected by the First Amendment.

Indictments are very public documents, though, and the indictment obviously goes to the defendant who has an absolute right to know the name and address of the person he is accused of attacking. So, one aspect of the present case, possible danger to the victim, was not present in the 1975 case.

In addition, the victim in the 1975 case was dead and, therefore, could not be embarrassed or harassed.

In a 1978 case, the Supreme Court was faced with a situation in which someone had improperly obtained information and given it to a newspaper. The newspaper had a First Amendment right to publish the information, the Court stated, because it had not acted improperly in getting it.

A similar ruling was made by the Court in a 1979 case in which the name of a juvenile offender was obtained from witnesses and published in the paper in violation of a state law.

ANALYSIS

The key question in this case is whether the information published was public information. If it was, then the prior decisions of the Court would strongly suggest that the newspaper had a right to publish it. There is nothing in the record to indicate that the newspaper did anything wrong in obtaining the information. Indeed, it is the sheriff's department which seemed to have slipped up. If the information were public, then the Court must decide whether the harms and risks to the woman involved outweighed the First Amendment's protection. It is very likely to side with the newspaper here. If the state were interested in protecting the women here, it had ways of doing so, such as not giving her name to the press in the first place.