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Spring 4-1-2021

## Nebraska Press Association v. Stuart: A Synopsis and Archive for a First Amendment Landmark

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Nebraska Press Association v. Stuart:  
A Synopsis and Archive for a First Amendment Landmark

An Undergraduate Honors Thesis  
Submitted in Fulfillment of  
University Honors Program Requirements  
University of Nebraska-Lincoln

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April, 1, 2021

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#### Abstract:

This project explores in depth the background, arguments, precedents, and impact of the First Amendment Supreme Court case, *Nebraska Press Association v. Stuart*. This project utilizes newspaper coverage of the trial that informed the case and the case's journey to the United States Supreme Court, as well as files obtained from the chambers of multiple former U.S. Supreme Court justices, publicly available oral arguments made before the court, and the ultimate decision from the Supreme Court, to create a holistic image of this case. Given the importance of this case in securing the right of the press to report on matters taking place in courtrooms, and the importance the case serves to the state of Nebraska as a whole, this website can now serve as an important resource for research on this case, both in terms of understanding the arguments made and circumstances leading up to the case, and in terms of seeing and obtaining tangible archival materials relating to the case.

#### Key Words:

Journalism, Freedom of Speech, Freedom of the Press, First Amendment, U.S. Supreme Court, Prior Restraints, Gag Order, Nebraska, Nebraska Press Association, Courtroom Reporting

Dedication/Appreciation:

This project is dedicated to two people whose support, knowledge, expertise, and understanding were invaluable in creating this project. First, to John Bender, who not only helped foster in me a love of learning about the First Amendment, but without whom none of this project would have been possible. Thank you for trusting me with all of the materials you had gathered and the work you had done long before I stepped foot in one of your classrooms. Thank you for supporting me when I wasn't sure how I would ever get this project done. Thank you for believing in me, even when there were countless others you could have chosen for this endeavor. Second, to Clinton Lowe, who spent many long nights with me on the floor of his room scanning documents for hours upon hours. Thank you for listening to me rant about Supreme Court decisions and Nebraskan newspapers. Thank you for making me laugh about the strange headlines that seemed to permeate every single newspaper in 1975. Thank you for always bringing me coffee and cookies (I really needed them).

On this page, I intend to describe the process and organization of the information that would eventually make its way to the *Nebraska Press Association v. Stuart* website. Immediately, I think it is necessary to provide the disclaimer that much of the materials used in this project were not acquired by me, but by my advisor, Dr. John Bender. Before I had even considered taking on this project, Dr. Bender had collected an arsenal of newspaper archives, detailing various aspects of the *Nebraska Press Association* case, from coverage of the murder of the Kellie family, to discussion of the gag itself, to newspaper articles about the final Supreme Court decision. In addition, Dr. Bender also collected plentiful material about the case from the archives of multiple Supreme Court justices. As such, much of the credit for the very existence of this project goes to Dr. Bender for collecting the materials that I would eventually use.

The previous work undertaken by Dr. Bender should inform the understanding of how this website was developed. Initially, Dr. Bender approached me with this extensive collection of materials with the idea of creating an archive of information about the *Nebraska Press Association v. Stuart* Supreme Court case. While I would end up doing this, I also wanted to create a project that could serve as a sort of narrative guide to anyone looking to learn about the case. This idea took many shapes, eventually resulting in the plan to create a website that would provide relevant information about the case, including the narrative surrounding the case, the various arguments made by and before the Supreme Court, and the archives provided by Dr. Bender. I wanted to create something that would not only be a resource for those already

intimately familiar with the case (such as an archive or library) but that could also act as a robust introduction to the case and its important First Amendment impacts.

I used a variety of materials to create this website. First and foremost, I used the archives collected by Dr. Bender, which included newspaper clippings and Supreme Court papers. These materials were useful not only for the archives, but for the timeline section in which I detail the events that transpired throughout the case's evolution. Further, Dr. Bender provided me with some drafts of a book he had begun about the case, which were created using the many archives as well as interviews he had conducted. These drafts were invaluable in creating the timeline section of the website, which detailed the murders that initiated the case, the gag orders imposed by multiple judges on the press, the appeals process, the Supreme Court's decision on the gag orders, and the results of the murder trial that sat at the center of this case.

For the arguments section of the website, I listened to the oral arguments made by each lawyer before the Supreme Court. The full audio recording of the oral arguments is available on Oyez, a Supreme Court case resource. Using the recordings of the oral arguments, I listed each of the main arguments made by the four men who argued before the court and expanded upon them using knowledge of Supreme Court procedures, First Amendment principals, and the general arguments themselves. For the expanded portion of this page, listed under "Decision," I analyzed the opinions given by the justices on the court at the time of the decision. I read and utilized the full decision, which I found on Justia, another Supreme Court web source. I detailed the various sections of the arguments given by each justice by reading and interpreting the five total decisions written for the case.

For the section of the website titled "Precedents and Future Cases," I used a combination of sources. Most importantly, I interviewed and gathered the expertise of Supreme Court

scholars, most notably Lyle Denniston, to contextualize the *Nebraska Press Association* decision among the other First Amendment cases that influenced and were influenced by the decision. Once I had identified the relevant cases to include in this section, I read the Supreme Court decisions for each case, which were available mostly through Justia, to interpret the decision of each case. I then went back to the *Nebraska Press Association* decision to determine how it influenced or was influenced by the case in question.

The archives section is likely the most robust portion of the site. To create this portion, I went through all of the files provided to me by Dr. Bender and sorted them into sections and subsections (one section, for instance, would be newspaper archives, with a subsection of that being murder coverage). Afterwards, I scanned the files individually, organizing them by date. Finally, once I had scanned and organized the files, I uploaded them to the site. I uploaded the Supreme Court papers as PDFs and the newspaper clippings as JPEGs. The reason I uploaded these files differently is because I felt it would be important for viewers to physically see the newspapers as they were scrolling, similarly to how they might see these pages if they were looking through a physical archive. Meanwhile, the court documents were far less visually intriguing and, seeing as these documents were often upwards of 20 pages, it felt more appropriate to upload them in PDF format where viewers could decide to view them in more detail once they had read the title.

There were other actions I took to create this website that are not visible on the site itself. For instance, I digitized many of the interviews conducted by Dr. Bender with experts on the case, such as with *North Platte Telegraph* editor Keith Blackledge, which were previously available only on cassette tapes. In addition, I conducted my own interviews with people who had expertise on the case, such as current courtroom journalists whose work has been heavily

impacted by *Nebraska Press Association* decision, professors with extensive knowledge of the Nebraska news landscape at the time of the case, and people with significant Supreme Court expertise. While these interviews are not currently available on the website, they greatly informed my knowledge of the case and acted as much needed guidance in ensuring the website was appropriately celebratory of the decision, cautious of the implications it created, accurate in descriptions of the events, and respectful to the human beings involved. These interviews will likely be added to the site at a later time, as I am currently working with members of the CoJMC to get the interviews uploaded to the college's site.

I created the site using Wix, which I already had some experience with from a previous class. I wanted the site to flow in a way where someone with no knowledge of this case would be able to start from the beginning and slowly be introduced to the various aspects of the case. In other words, I wanted it to be straightforward, accessible, and easy to understand, so that anyone could become an expert in the case by the time they finished perusing the site. As such, I began with a short overview that would give viewers an introduction to the case. Next, I created a timeline section broken into the five main portions of the case. After familiarizing themselves with the case, the viewer could then assess the arguments made by the lawyers on behalf of both parties, before reading the decision issued by the justices addressing said arguments. After understanding the case in depth, the viewer could then go to the precedents and future cases section to understand the case in context and gain a more robust knowledge of general First Amendment principals and rulings. Finally, with all of this knowledge, the viewer could then come to the archives section to view documents that informed the case's trajectory. With these archives, viewers could gain an even deeper, more hands-on knowledge of the case.



While this project required a lot of research into the specifics of the *Nebraska Press Association* case, it also required a deep dive into understanding the norms of news reporting in the Midwest in 1975, the general processes of appealing a case to a higher court, various intricacies of the Nebraska judicial process, and the overall landscape of freedom of press at the time of this case. I have gained so much more knowledge than I could possibly have expected I would in just a year of working on this website. I hope this project can serve as a wealth of knowledge for others seeking to learn more about the First Amendment, as it has already done for me.

Here is the link to the website. This link or URL may be subject to change:

<https://sbrunozuna.wixsite.com/my-site>