

State

Texas Supreme Court orders new trial

Protests denied in libel ruling

United Press International
AUSTIN — The Texas Supreme Court has upheld a lower court decision ordering a new trial in a Beaumont libel suit, despite

arguments from the Texas Daily Newspaper Association that the decision could destroy truth as a defense for libel and encourage a rash of libel suits.

The Supreme Court, without written comment, upheld a Court of Civil Appeals ruling ordering a trial on a libel suit filed by Aaron Rose, Felix Burrus, C.C. Moss and Russell Adkins against The Enterprise Co., publishers of The Beaumont Enterprise and The Beaumont Journal.

The four contend that an article published in the Beaumont papers on Dec. 7, 1979, is ambiguous and falsely implies that they had been indicted for gambling promotion.

The article listed four persons named in the indictment, and also listed Rose, Burrus, Moss and Adkins as among the persons who

had placed bets with one of the men indicted for gambling promotion.

The newspapers contended the articles were substantially true, and that truth is a defense against libel actions.

A trial court granted a summary judgment in favor of the newspapers, but the Court of Civil Appeals reversed that ruling and sent the case back to Beaumont for a full trial on grounds there were fact issues to be determined by a jury.

The TDNA argued the article was clear and not ambiguous, and said the Court of Civil Appeals' decision in the case, if allowed to

stand, "would effectively destroy the defense of truth in a libel action."

The TDNA brief said: "The detriment of such results to the news media is beyond question. Even the qualified, no reversible error, approval of the opinion below would be extremely detrimental to the news media. Any plaintiff, on any shabby pretext, could force a jury trial."

"Careful reporting should be encouraged, but publishers should not be placed in the position of having to screen every article to be sure that the words could not be given a contorted meaning and made the basis for a libel action. Any sort of approval of the opinion below could well result in a rash of libel suits."

The Civil Appeals Court opinion in the case says it is undisputed that the four plaintiffs in the libel suit engaged in gambling, and that had given testimony to the grand jury and received immunity from prosecution.

Court to hear case on records access

United Press International
AUSTIN — The Texas Supreme Court agreed Wednesday to hear a motion concerning the rights of a plaintiff to have access to confidential medical records in a suit against a physician.

Lenard Durrett, a Van Zandt County farmer and contractor, sought treatment from Dr. Harold H. Varon because of lower back pains. Varon diagnosed the ailment as arthritis and prescribed a variety of hormone and steroid injections for treatment.

Durrett charges he was assured he would not suffer side-effects from the drugs, but later developed high blood pressure, insomnia, enlarged breasts, excessive beard growth and a variety of other disorders.

Durrett further charges that the treatment prescribed by Varon was unorthodox, and had been universally rejected as a treatment for his illness.

Durrett is charging Varon

with negligence and gross negligence and has sought access to Varon's medical records for any patients who had been treated with the same drugs in the past five years.

In a sworn deposition, Varon said he had used the treatment successfully on other patients with similar problems. But despite a court order, Varon refused to produce the applicable medical records.

Varon is asking the Supreme Court to overturn the judge's order that he produce the records. The physician maintains that allowing access to the records would violate the patients' privacy, even though names and addresses would be deleted.

Varon also asserts that the records are immaterial to the case and would only serve for the purpose of harassment.

The Supreme Court will hear arguments on Varon's request, Dec. 16.

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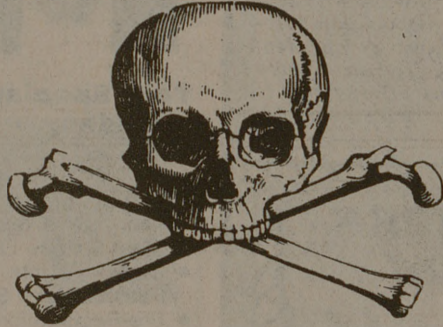
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Firm faces fine for PCB burn

United Press International
HOUSTON — The state is looking into levying a fine against a Deer Park chemical waste disposer for burning toxic PCBs during an air stagnation period, a Texas Air Control Board official says.

The Environmental Protection Agency earlier reprimanded Rollins Environmental Services for unauthorized burning polychlorinated biphenyls on Sept. 5 and 6, and warned another violations of its regulations would result in a \$25,000 fine.

But the state may not leave

Rollins' failure to shut down its operation during a windless period at a warning. Eli Bell, deputy director of enforcement for the Texas Air Control Board, said Tuesday he is considering a staff recommendation to seek a penalty in court.

Rollins' spokesman Jerry D. Neel said there was a misunderstanding by the shift operator, who he said understood there was a standby alert instead of a stagnation warning. PCBs were burned for two 12-hour periods without authorization.

Meanwhile, residue in the air and soil around the incinerator from the legal burning of wastes is being tested to determine whether one of 19 chemicals has affected at least 60 persons in the immediate area.

The unexplained incidence of skin rashes dates back to last spring when Rollins began burning PCBs.

Neel said there was no way the unauthorized PCB burn in September could have harmed anyone.

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TUESDAY EVENING SPECIAL

Mexican Fiesta Dinner
Two Cheese and Onion Enchiladas w chili
Mexican Rice
Patio Style Pinto Beans
Tostadas
Coffee or Tea
One Corn Bread and Butter

WEDNESDAY EVENING SPECIAL

Chicken Fried Steak w cream Gravy
Whipped Potatoes and Choice of one other Vegetable
Roll or Corn Bread and Butter
Coffee or Tea

THURSDAY EVENING SPECIAL

Italian Candle Light Spaghetti Dinner
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Tea or Coffee

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