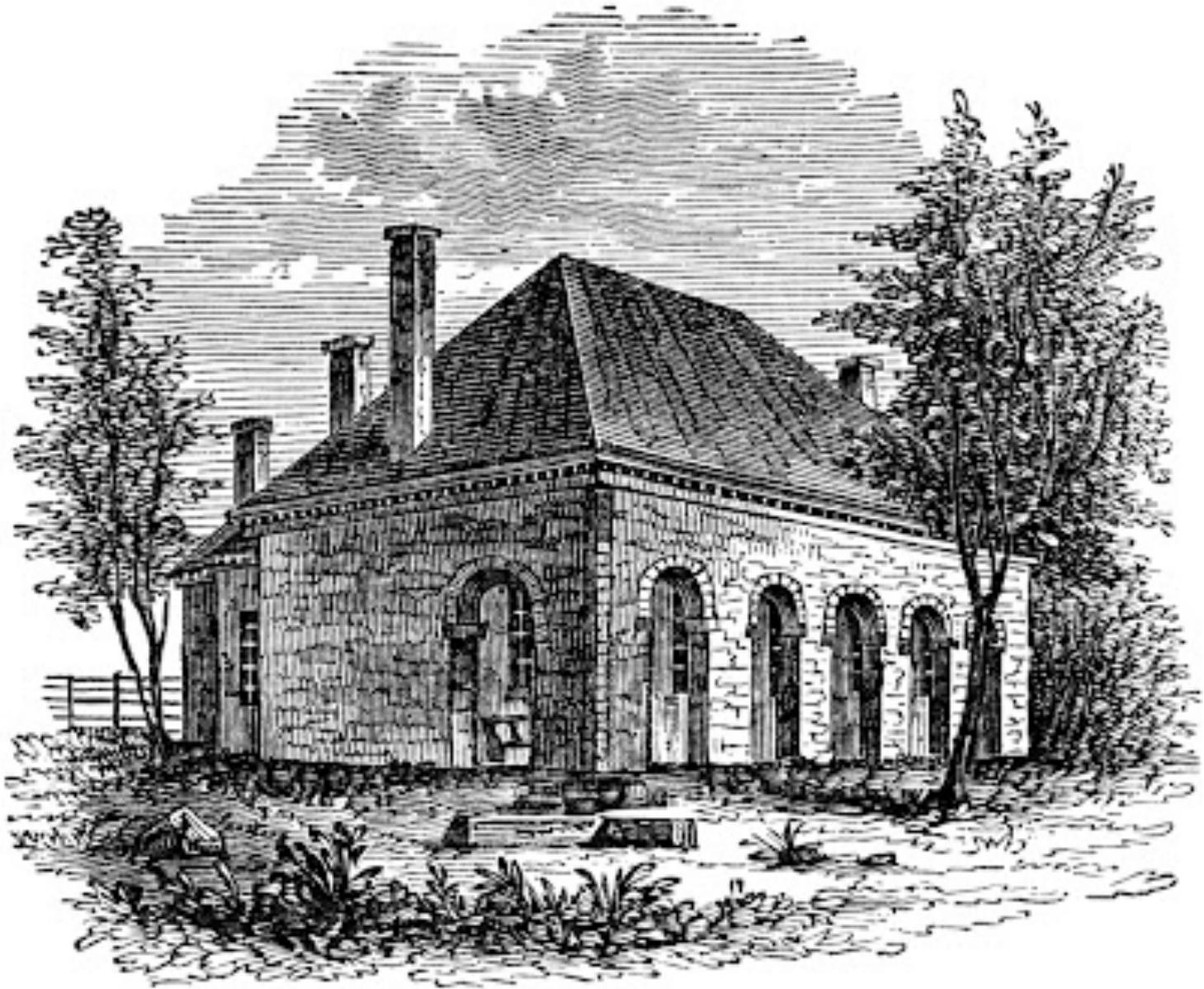


Open PACER

Stephen Schultze

Princeton University

A Presentation to the Advisory Committee on Transparency
Rayburn House Office Building, US House of Representatives
January 28, 2013



Virginia newspapers appeal judges' power to hold trials in secret

12B THE LEDGER/Sunday, August 19, 1979

From The Washington Star

WASHINGTON — With the ghost of Patrick Henry at its side, the press has returned to the Supreme Court to test its right to cover criminal trials in the nation's courthouses.

A new appeal from Virginia gives the justices their first opportunity — if they are seeking one — to limit judges' power to hold trials in secret.

The appeal arrived at the court last week, only six weeks after the justices made history by ruling that the Constitution allows judges to bar the public, including the press, from some criminal hearings.

That decision, reached by a 5 to 4 vote, came in a case taken to the highest court by the Gannett newspaper chain.

Even among the justices themselves, there has been dispute over the actual meaning of the decision.

Since it was handed down, two justices — both members of the majority — have said that some lower court judges may be reading that ruling too broadly or freely. [...]

The case comes out of a small-town Virginia courthouse that is rich in history — the Hanover County Courthouse in Hanover.

It was there that colonial Virginia's Patrick Henry made a reputation as an orator, at age 27. That was 12 years before his most famous speech — "Give me liberty or give me death" — on the eve of the revolution.

But Henry first "astonished an audience with his eloquence," historians say, in 1763 in "The Parsons' Cause" at the Hanover courthouse.

Denouncing a British king as a "tyrant," for refusing to let the colony pay clergymen in cheapened money instead of tobacco, Henry declaimed that the king has "forfeited all right to his subjects' obedience."

That speech, according to the new appeal in the Richmond newspapers' case, came in open court before a throng of spectators, and until 1978, a trial in that courthouse had never been closed.

"It would be ironic, indeed, if the Hanover County Courthouse, long remembered in a brighter light, should find its place in American history as the seat of secret trials — the symbol of a dark period in the annals of justice," the appeal argues. "The court's recent decision in Gannett need not foreshadow such a result."

“It would be an odd result indeed were we to declare that our courtrooms must be open, but that transcripts of the proceedings occurring there may be closed.”

United States v. Antar, 38 F.3d 1348



PACER

“Public Access to Court Electronic Records”

Search Clues

Case Number

or search by

Case Status: Open Closed All

Filed Date to

Last Entry Date to

Nature of Suit
0 (zero)
110 (Insurance)
120 (Contract: Marine)

or search by

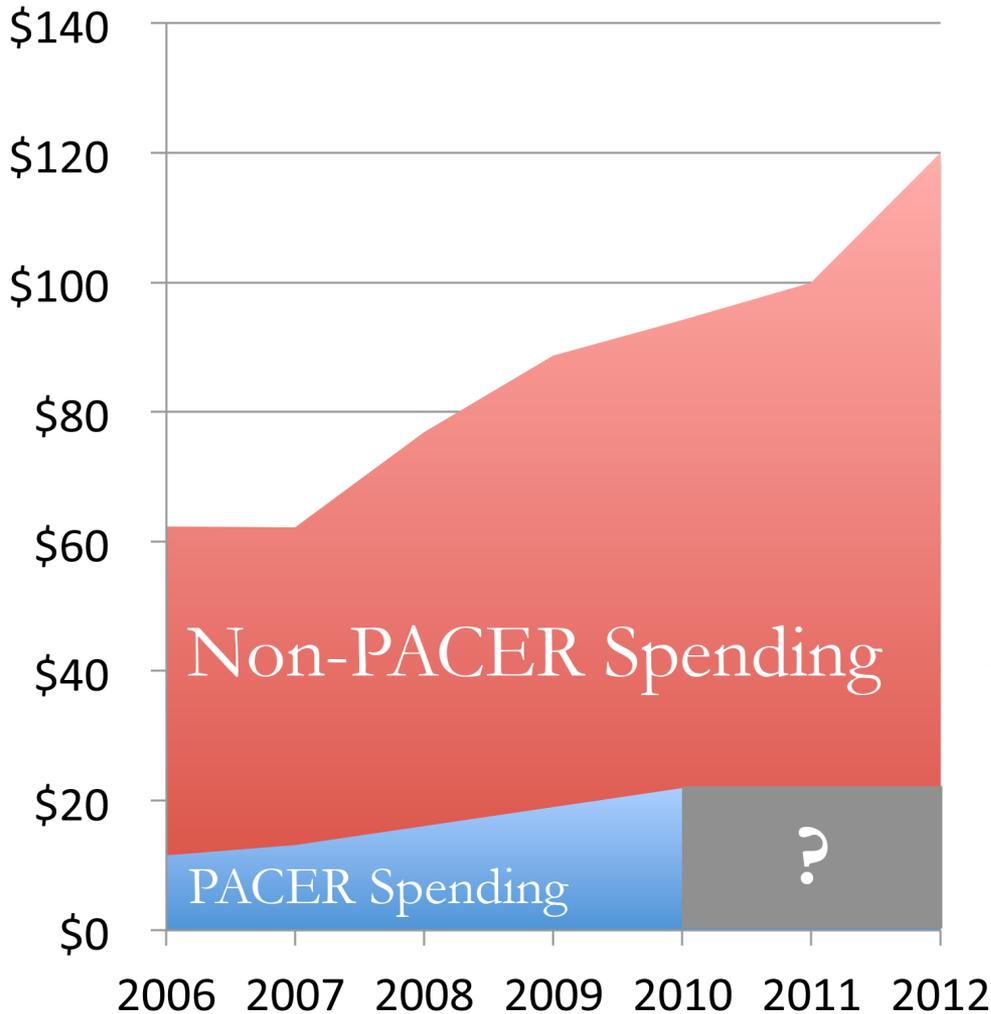
Case Status: Open Closed All

Last/Business Name (Examples: Desoto, Des*t)

First Name Middle Name

Type Prisoner ID

PACER Fees (in millions)



“Every juror has their own flatscreen monitors.”

– Judge William E. Smith, US District of Rhode Island

“The Committee intends to encourage the Judicial Conference to move from a fee structure in which electronic docketing systems are supported primarily by user fees to **a fee structure in which this information is freely available** to the greatest extent possible.”

*US Congress,
E-Government Act of 2002*

42%

*increase in fees
by 2012*

Federal judge's rulings favored companies in which he owned stock

By JENNIFER GOLLAN AND SHANE SHIFFLETT on November 20, 2012 - 12:01 a.m. PST

A federal judge has issued three key rulings over a four-year period that favored companies in which he owned stock, a California Watch analysis has found.

Measures are in place to prevent judges from violating federal conflict-of-interest laws. But Judge Manuel Real, a 46-year veteran of the bench appointed by President Lyndon B. Johnson, appears to have skirted those safeguards, records and interviews show.



CENTER FOR
INVESTIGATIVE
REPORTING

IN THE UNITED STATES DISTRICT COURT
FOR THE NORTHERN DISTRICT OF CALIFORNIA
SAN FRANCISCO DIVISION

In re Application for Exemption from
Electronic Public Access Fees by Jennifer
Gollan and Shane Shifflett

NO. MISC 12-80113 JW

**ORDER DENYING APPLICATION FOR
EXEMPTION FROM ELECTRONIC
PUBLIC ACCESS FEES**

FBI Case ID #: 288A-WF-238343

To set lead to locate Aaron Swartz.

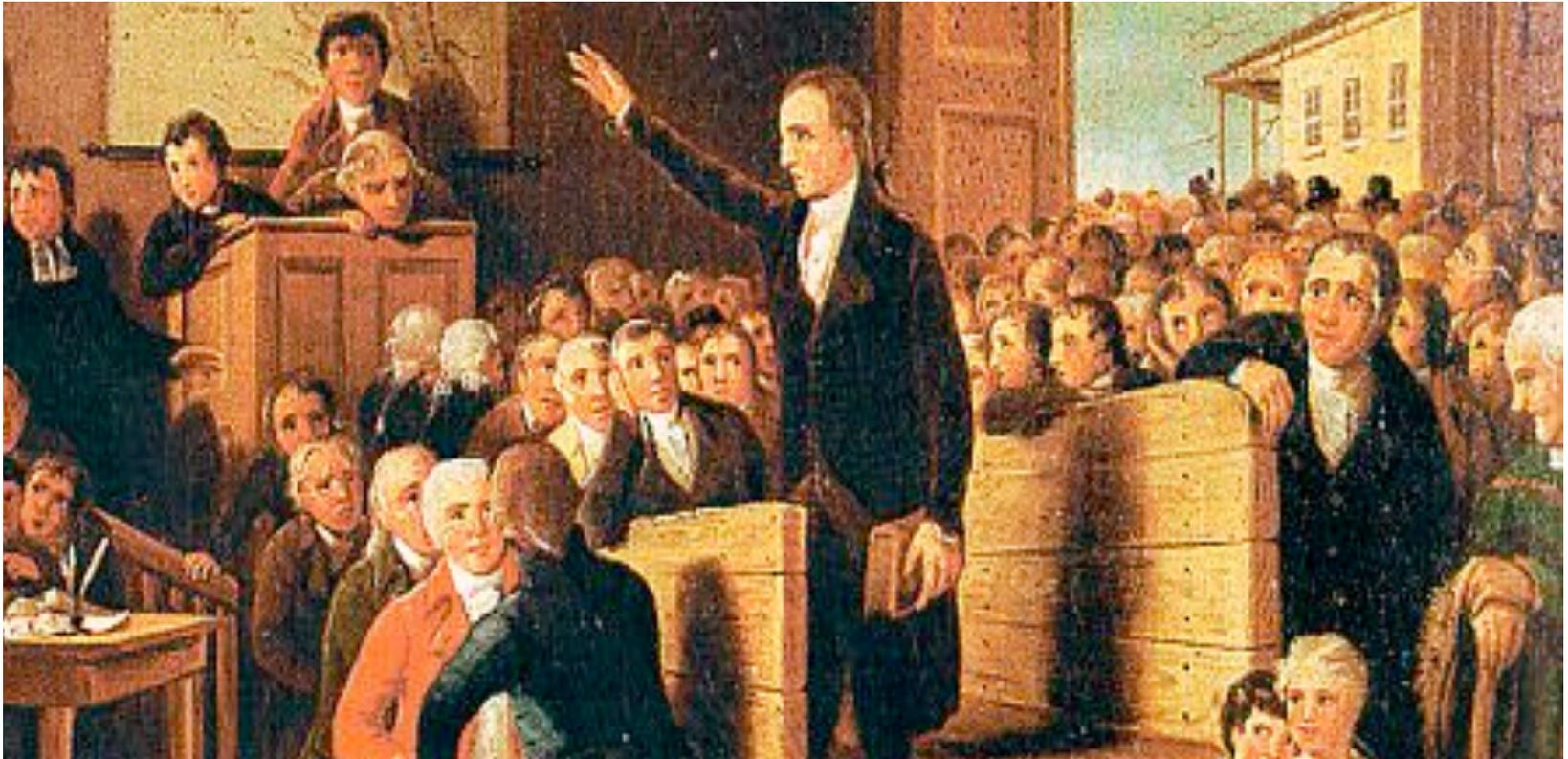
“Between September 4, 2008 and September 22, 2008...

Administrative Office of the U.S. Courts reported that the PACER system was being inundated with requests. One request was being made every three seconds... The two accounts were responsible for downloading more than **eighteen million pages with an approximate value of \$1.5 million.**”

DOJ Computer Crime and Intellectual Property Section Investigation

“I would venture to guess that the PACER compromise was conceived and carried out by Swartz and [REDACTED] in furtherance of the open access to documents projects that both are involved in. I wouldn't be shocked if they freely admitted they did it and asserted some sort of defense based on **their belief that government documents should be available free of charge.**”

Patrick Henry (May 29, 1736 – June 6, 1799)



Aaron Swartz (November 8, 1986 – January 11, 2013)



openpacer.org

113TH CONGRESS
1ST SESSION

H. R. _____

To provide the public with open access to electronic federal court records.

IN THE HOUSE OF REPRESENTATIVES

JANUARY 28, 2013 (DRAFT 1.3)

_____ introduced the following bill; which was referred to the Committee on _____.

A BILL





(a moment of silence for *Aaron*)