

NOTE: Where it is feasible, a syllabus (headnote) will be released, as is being done in connection with this case, at the time the opinion is issued. The syllabus constitutes no part of the opinion of the Court but has been prepared by the Reporter of Decisions for the convenience of the reader. See *United States v. Detroit Lumber Co.*, 200 U. S. 321, 337.

SUPREME COURT OF THE UNITED STATES

Syllabus

ANTOINE v. BYERS & ANDERSON, INC., ET AL.
CERTIORARI TO THE UNITED STATES COURT OF APPEALS FOR THE
NINTH CIRCUIT
No. 91-7604. Argued March 30, 1993—Decided June 7, 1993

Petitioner's appeal from a federal-court bank robbery conviction was delayed four years because respondent court reporter failed to provide a trial transcript. In his civil damages action against respondent and her former employer, also a respondent here, the Federal District Court granted summary judgment in respondents' favor on the ground that court reporters are entitled to absolute immunity. The Court of Appeals affirmed.

Held: A court reporter is not absolutely immune from damages liability for failing to produce a transcript of a federal criminal trial. Respondents bear the burden of establishing the justification for the absolute immunity they claim, which depends on the immunity historically accorded officials like them at common law and the interests behind it, *Butz v. Economou*, 438 U. S. 478, 508. Since court reporters were not among the class of person protected by judicial immunity in the 19th century, respondents suggest that common-law judges, who made handwritten notes during trials, be treated as their historical counterparts. However, the functions of the two types of notetakers are significantly different, since court reporters are charged by statute with producing a "verbatim" transcript for inclusion in the official record, while common-law judges exercise discretion and judgment in deciding exactly what and how much they will write. Moreover, were a common-law judge to perform a reporter's function, she might well be acting in an administrative capacity, for which there is no absolute immunity. *Forrester v. White*, 484 U. S. 219, 229. Because their job requires no discretionary judgment, court reporters are not entitled to immunity as part of the judicial function. See *Imbler v. Pachtman*, 424 U. S. 409, 423, n. 20. Pp. 3-9.

950 F. 2d 1472, reversed and remanded.

STEVENS, J., delivered the opinion for a unanimous Court.