

**Meeropol v. Nizer,  
560 F.2d 1061 (2d Cir. 1977)**

Year	1977
Court	United States Court of Appeals for the Second Circuit
Key Facts	Plaintiffs' parents, Julius and Ethel Rosenberg, were tried and executed in 1953 as Soviet Union spies. Defendants authored and published <i>The Implosion Conspiracy</i> , which recounted the events of the Rosenberg trial and incorporated, without authorization, verbatim portions of twenty-eight copyrighted letters written by the Rosenbergs. Plaintiffs sought injunctive relief and damages for copyright infringement, defamation, and invasion of privacy. Plaintiffs appealed the district court's ruling on summary judgment that the use was fair.
Issue	Whether the district court erred by ruling, on summary judgment, that defendant's incorporation of verbatim portions of letters written by the Rosenbergs in a book about the Rosenberg trial was a fair use.
Holding	The court of appeals reversed the district court's decision, finding that genuine issues of fact remained on the purpose and character of defendants' use as well as the effect on plaintiffs' future market. The district court had relied heavily on <i>Rosemont Enterprises, Inc. v. Random House, Inc.</i> , 366 F.2d 303 (S.D.N.Y. 1966), which held that scientific or historical works invoking the fair use doctrine should be defined broadly in favor of the historical work when determining applicability of the doctrine. The court of appeals distinguished the copying in <i>The Implosion Conspiracy</i> from that in <i>Rosemont</i> by pointing out that only two direct quotes were copied in <i>Rosemont</i> , while in this case there was verbatim copying of twenty-eight letters. Further, the court of appeals found that a fair use determination must analyze whether or not the copyrighted material was used "primarily for scholarly, historical reasons, or predominantly for commercial exploitation." The court also found that the effect on the potential market was in dispute because defendants' work could negatively impact the market for republication or the sale of motion picture rights in plaintiffs' works.
Tags	Second Circuit; Education/Scholarship/Research; Textual Work
Outcome	Preliminary ruling, mixed result, or remand

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