

Bell v. Kiffin
24-CV-231, 2024 U.S. Dist. LEXIS 226884 (N.D. Miss. Dec. 16, 2024)

Year	2024
Court	United States District Court for the Northern District of Mississippi
Key Facts	Plaintiff Dr. Keith Bell is the author of the motivational book for athletes, titled <i>Winning Isn't Normal</i> , and holds a separate copyright in an excerpt from the book known as the "WIN Passage." Defendant Lane Kiffin, head football coach at the University of Mississippi, posted an image of a photocopy of the WIN Passage to his personal Twitter account. Kiffin tagged the university (@OleMiss) in the post, but did not comment on the WIN Passage. Bell sued for copyright infringement, and Kiffin moved to dismiss the case, asserting defenses of qualified immunity and fair use.
Issue	Whether reproducing an image of a printed-out passage from a book in a social media post constitutes fair use.
Holding	Before proceeding to the fair use analysis, the court recounted Bell's extensive history of filing copyright lawsuits involving the WIN Passage with a focus on two "very similar actions" in which courts criticized and sanctioned Bell for "abusive litigation practices," including circuit precedent in <i>Bell v. Eagle Mountain-Saginaw Independent School District</i> , 27 F.4th 313 (5th Cir. 2022). Based on parallels between these cases and Bell's conduct in this case, the court found that Bell's allegations were made in bad faith—a finding the court considered when making factual determinations as part of the fair use analysis. Turning to the fair use factors, the court started with the fourth, the effect of the use upon the potential market for or value of the work, finding that it strongly favored Kiffin. The court found it implausible that Kiffin's Twitter post harmed sales of Bell's book. The court went on to reject Bell's contention that the post harmed a licensing market for social media uses by motivational speakers as the existence of such a market was factually unsupported and "speculative in the extreme." Under the first fair use factor, the purpose and character of the use, the court found that Kiffin's tweet was made in good faith in part because, by posting a "photocopy of a printout" of the WIN passage, Kiffin was clearly not claiming authorship. Further, the court viewed Kiffin's "sharing of an inspirational quote or uplifting quote" as "an appropriate, or even laudable, use of social media" and "the sort of contribution to the exchange of ideas which copyright law should be very hesitant to find unlawful." The court rejected Bell's contention that Kiffin was motivated by commercial gain, finding no factual support that Kiffin's use was intended to recruit players to the university's football program that he coached or to advertise an alleged motivational speaking "side gig." The second factor, the nature of the work, favored Bell as the WIN Passage is an expressive work, but the court also noted the factor's relative insignificance. The third factor, the amount and substantiality of the portion used in relation to the work as whole, was neutral because the WIN Passage was only a small excerpt from a longer work and was freely available to the public on Bell's website. The court concluded that the factors together disfavored fair use and granted Kiffin's motion to dismiss.
Tags	Internet/Digitization; Textual Work
Outcome	Fair use found

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