

Chosen Figure LLC v. Kevin Frazier Prods., Inc.
795 F. Supp. 3d 1232 (C.D. Cal. 2025)

Year	2025
Court	United States District Court for the Central District of California
Key Facts	Josiah Kamau (“Josiah”), a professional photographer, took a picture on December 2, 2020, of musical artists A\$AP Rocky and Rihanna (the “Photograph”), which he uploaded to his personal account with a celebrity news agency for sale and licensing. Josiah assigned the rights in his photographs to Plaintiff Chosen Figure LLC (“Chosen Figure”), an entity operated by Josiah’s brother. Chosen Figure does not license photographs; its “sole source of revenue is judgments or settlements in litigation.” Defendant Kevin Frazier Productions, Inc. (“KFP”) is a media company that operates the website www.hiphophollywood.com and generates revenue through advertisements and its YouTube channel. On December 3, 2020, KFP published an article on its website titled “Can’t Be True” that included a screenshot of an Instagram Story from musical artist Lil Uzi Vert containing the Photograph. Chosen Figure filed suit for direct copyright infringement. KFP moved to dismiss, alleging fair use, among other affirmative defenses. The court denied the motion, concluding KFP “failed to meet its burden to show fair use.” The parties then submitted an integrated motion for summary judgment.
Issue	Whether use of a photograph in a news article reporting on a third party’s reaction to that photograph on social media was fair use.
Holding	Weighing the first factor, the purpose and character of the use, the court evaluated three subfactors and determined that, in totality, it weighed against fair use. The court determined that the photograph was used in news reporting, and “gossip news” should not be treated any differently than other forms of news, which leaned towards fair use. The court concluded, however, that this was outweighed by the other two subfactors. KFP’s use was commercial because it derived a financial benefit from its website, even if it only produced “minimal revenue.” The court also found that KFP’s use was not “transformative,” as the purpose of the use was “highly similar” to that of the original work—to discuss that A\$AP Rocky and Rihanna were seen together. The court noted that “even if reporting on Lil Uzi Vert’s reaction constitutes a further purpose, the Court is not persuaded that the Photograph was necessary” for the article, which KFP admitted. The second factor, the nature of the copyrighted work, also weighed against fair use. The court adopted Chosen Figure’s argument that Josiah “exercised technical skill and aesthetic judgment when he took the Photograph,” and acknowledged that even “point-and-shoot” photographs merit copyright protection. The third factor, the amount and substantiality of the portion of the work used, weighed against fair use because KFP “made a wholesale reproduction” of the Photograph and given the lack of transformativeness, this was not necessary to achieve its purpose. Lastly, the court held that the fourth factor, the effect of the use on the potential market for or value of the work, weighed against fair use. The court found a likelihood of an adverse impact on the market for the Photograph based on the lack of transformativeness of KFP’s use, its commercial nature, and the fact that both KFP and Chosen Figure are part of the same “gossip news market.” The court concluded all four factors weighed against fair use and dismissed this defense.
Tags	Photograph; News/Reporting; Internet/Digitization
Outcome	Fair use not found

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