

Gwinn v. City of Chicago
No. 23 CV 1823, 2025 WL 964089 (N.D. Ill. Mar. 31, 2025)

Year	2025
Court	United States District Court for the Northern District of Illinois
Key Facts	Plaintiff Dominic Gwinn (“Gwinn”) is a freelance photojournalist who filmed a 102-second video on June 17, 2020, depicting protesters throwing objects at police in Chicago’s Grant Park. Gwinn posted this video to his Twitter account. Over the following three days, Gwinn attempted to license the video to various news outlets but was unsuccessful. On June 20, 2020, then-Superintendent of the Chicago Police Department (“CPD”), Defendant David Brown (“Brown”), held a press conference about the Grant Park protest. During this conference, Brown played an eight-minute-long compilation of video recordings of the protest that included ninety-seven seconds of Gwinn’s 102-second-long video in a single cut without audio and provided commentary. CPD did not obtain Gwinn’s permission prior to or provide attribution to Gwinn during the video’s use. The next day, CPD emailed the compilation to various news outlets. Gwinn sued Brown and the City of Chicago for copyright infringement. The parties cross-moved for summary judgment.
Issue	Whether using a near-complete copy of a video recording of a local protest in a municipal press conference constitutes fair use.
Holding	The court held that the first factor, the purpose and character of the use, did not favor fair use because Defendants’ use was not transformative and shared the same purpose and character. The purpose of Plaintiff’s video “was to inform an audience about the events it depicts”—the Grant Park protest. Defendants used the video for the identical purpose—to inform an audience about the factual events of the protest, not because of “the inherent newsworthy quality of Gwinn’s presence or video.” The court rejected Defendants’ argument that adding graphics to the video, juxtaposing it with other footage, and providing commentary transformed the work. The court explained that adding factual commentary (as opposed to political commentary) did not move the needle because that merely served the informative purpose. The court noted that, although the use was non-commercial and in good faith, these “marginal factors” were not needed because “[t]his factor is not a close call.” The court ruled that the second factor, the nature of the copyrighted work, favored fair use because, as Gwinn conceded, the work was factual rather than creative. The court held that the third factor, the amount and substantiality of the portion used, did not favor fair use because Defendants copied “all but six seconds” of the work, notwithstanding that they removed its audio. While near-complete copying is not <i>per se</i> against fair use, it cut against fair use here because the copying was not tied to a transformative purpose. The court ruled that the fourth factor, the effect upon the potential market for or value of the work, was neutral. Although Gwinn was unable to license the video after the press conference, neither party presented evidence showing whether this failure was caused by the press conference. Restating that two factors did not favor fair use, one factor did, and one was neutral, the court found that it was not fair use, concluding that the first factor was “determinative” and “dominates the fair use analysis” here. Accordingly, the court granted summary judgment to Gwinn.
Tags	Film/Audiovisual; Internet/Digitization; News Reporting; Review/Commentary
Outcome	Fair use not found

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