

**Fitzgerald v. CBS Broad., Inc.,
491 F. Supp. 2d 177 (D. Mass. 2007)**

Year	2007
Court	United States District Court for the District of Massachusetts
Key Facts	Plaintiff, a freelance photojournalist, sued defendant CBS after its unauthorized broadcast of his copyrighted photographs of a high-profile criminal defendant moments after his arrest. The photographs were broadcast several times on CBS-affiliated news programming.
Issue	Whether defendant's unauthorized use of plaintiff's photographs of a high-profile criminal defendant in news programming concerning events related to that criminal defendant constituted fair use.
Holding	The court found that the defendant's television broadcast of the photographs was not fair use. Although the defendant's use of the photographs was newsworthy, it was for commercial gain, weighing against fair use. The court found that the defendant's slight cropping and placement of the photograph did not make the use transformative, as plaintiff and defendant shared the same intended meaning and use of the works—namely, news reporting. Finally, the court determined that CBS' repeated, widespread use would adversely impact the potential media licensing market for plaintiff's photographs.
Tags	First Circuit; Film/Audiovisual; News Reporting; Photograph
Outcome	Fair use not found

Source: U.S. Copyright Office Fair Use Index. For more information, see <http://copyright.gov/fair-use/index.html>.