

Five Navy Seals, et al v. Associated Press, et al



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3:05-CV-00555 FIVE NAVY SEALS V. ASSOCIATED PRESS

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DECL.

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12 **UNITED STATES DISTRICT COURT**
13 **SOUTHERN DISTRICT OF CALIFORNIA**

14
15 FOUR NAVY SEALS, *et al.*

16 Plaintiffs,

17 vs.

18 ASSOCIATED PRESS, *et al.*

19 Defendants.

Case No. 05 CV 0555 JM (JMA)

DECLARATION OF TRACY GITNICK

Date: May 6, 2005

Time: 11:00 a.m.

Ctrm.: 6

Hon. Jeffrey T. Miller

Complaint filed: March 21, 2005

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23 I, Tracy Gitnick, hereby declare:

24 1. I am the Southern California Photo Editor for The Associated Press ("AP"), and I
25 submit this declaration in support of defendants' motion to dismiss and to strike the Complaint. I
26 have personal knowledge of the facts contained herein and if called to testify regarding these facts,
27 could do so competently.

or

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1 2. I have worked as a photo editor at AP since I completed my B.A. degree in
2 Communications from the University of Pennsylvania in 1995. I earned my M.A. in photography
3 from New York University in 2000 while working at AP. I initially worked as a photo editor at
4 AP's New York headquarters, working at various times on the National Desk, in the New York
5 City bureau, and on the National Sports Desk. I moved to Los Angeles in early 2001 to become the
6 Deputy Photo Editor for Southern California, and was appointed Photo Editor for Southern
7 California in September 2004. As Deputy Photo Editor for Southern California, I supervised Paul
8 Harrington, who was one of the bureau's night photo editors until mid-2004.

9 3. As Photo Editor for Southern California, I was contacted by AP reporter Seth
10 Hettena last fall concerning photos showing Navy SEALs and Iraqi prisoners that he had found
11 displayed on an Internet website. Mr. Hettena initially sent to me by email an Internet link (the
12 URL address) where the photos were posted. By simply clicking on that link in the email, I was
13 taken directly to a page of photographs.

14 4. No password was required before the photographs were displayed to me, nor was
15 there any notice that I observed on the website indicating that the photos were not intended to be
16 viewed by the public. To the contrary, any photo could be downloaded simply by "right-clicking"
17 and saving, and the website offered to provide copies of photos by mail for a fee.

18 5. I visited the site on more than one occasion and was never asked for a password, nor
19 was my access ever restricted in any way. In viewing the photographs, on several occasions I did
20 not use the direct URL provided by Mr. Hettena to access the website. Instead, I simply went to the
21 smugmug.com home page, and was quickly able to find the folders with the photos of the Iraqi
22 prisoners by typing in a single search term, such as the word "camp" or "Baghdad."

23 6. The photos were freely available for viewing, downloading and purchase by anyone
24 with access to the Internet.

25 7. The decision to publish examples of the photos that were posted on the Internet
26 violated no AP policy. Unlike the situation where AP might seek a family's permission to run a
27 family photo of a serviceman who had been killed or wounded, the existence of the photos of Iraqi
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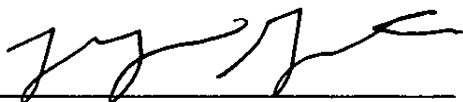
1 prisoners in the custody of SEALs, on the Internet, was itself news, particularly after the Navy
2 announced an investigation into the photographs.

3 8. AP's policy against manipulating or altering news photos is annexed as Exhibit A.
4 This policy was last updated on January 18, 2001, but its principles have remained essentially the
5 same for as long as I have been a photo editor at AP: "The content of a photograph will NEVER be
6 changed or manipulated in any way."

7 9. This policy is distributed to all AP reporters and photographers. It is posted on AP's
8 internal website and it is an exhibit to AP's collective bargaining agreements. Violating the policy
9 can be grounds for discharge.

10 10. The hallmark of the AP photo policy is fidelity to the truth. This policy against
11 altering news photos is central to AP's mission, and it is essential to maintaining AP's credibility
12 and reputation as a reliable source of the news.

13 I declare under penalty of perjury under the laws of the United States of America that the
14 foregoing is true and correct, and this declaration was executed in Los Angeles, California on
15 April 27, 2005.

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17 _____
18 Tracy Gitnick
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AP's Policy on electronic handling of photos

page last updated 01/18/01 00:24

To the AP Photo Staff:

The following statement of our policy on electronic handling of photos was issued in 1990, the infancy of highspeed photo transmission and digital picture handling. It is as valid today as it was then.

Electronic imaging raised new questions about what is ethical in the process of editing photographs. The question may have been new, but the answers all come from old values.

Simply put, The Associated Press does not alter photographs. Our pictures must always tell the truth.

The computer has become a highly sophisticated photo editing tool. It has taken us out of a chemical darkroom where subtle printing techniques, such as burning and dodging, have long been accepted as journalistically sound. Today these terms are replaced by "image manipulation" and "enhancement". In a time when such broad terms could be misconstrued, we need to set limits and restate some basic tenets.

The content of a photograph will NEVER be changed or manipulated in any way.

Only the established norms of standard photo printing methods such as burning, dodging, toning and cropping are acceptable. Retouching is limited to removal of normal scratches and dust spots.

Serious consideration must always be given in correcting color to ensure honest reproduction of the original. Cases of abnormal color or tonality will be clearly stated in the caption. Color adjustment should always be minimal.

In any instance where a question arises about such issues, consult a senior editor immediately.

The integrity of the AP's photo report is our highest priority. Nothing takes precedence over its credibility.

Thank you,
Vin Alabiso

This page was last updated Sunday, August 01, 2004 02:01:57