

**Wojnarowicz v. Am. Family Ass'n,
745 F. Supp. 130 (S.D.N.Y. 1990)**

Year	1990
Court	United States District Court for the Southern District of New York
Key Facts	Plaintiff Wojnarowicz was a multimedia artist focused on raising awareness about AIDs devastation in the gay community. Defendant American Family Association (AFA) was a non-profit corporation with the goal of “promoting decency” and advancing “the Judeo-Christian ethic” in American society. As part of its campaign against subsidizing offensive and blasphemous art, the AFA distributed pamphlets opposing funding for the National Endowment for the Arts. In the pamphlets, the AFA reproduced fragmented images of sexual acts that were taken from plaintiff’s art work. A slogan superimposed over them read, “Your Tax Dollars Helped Pay For These ‘Works of Art.’”
Issue	Whether unauthorized use of copyright protected images in public pamphlets to influence public policy on funding allegedly objectionable art constituted fair use.
Holding	The court held that reproducing plaintiff’s images in the AFA pamphlet constituted fair use. The court stated that the pamphlet was entitled to great protection because public funding must remain open to challenge, and those who accept such funds must accept the right of others to protest. The court also ruled that the pamphlet’s main purpose, objecting to the federal funding, significantly outweighed its fundraising aim. Turning to the second factor, the court found the plaintiff’s works to be highly creative expressions deserving of strong protections. For the third factor, the court determined that the amount of the works used was small and weighed in favor of fair use. Finally, the court sided with defendants regarding the fourth factor and held that fair use allows “publications which criticize and comment to damage the market value of copyrighted work.” Although sales of plaintiff’s works may potentially decrease, the pamphlet did not “tap any sources of economic profit” that otherwise would have gone to authorized works.
Tags	Second Circuit; News reporting; Painting/Drawing/Graphic; Textual work
Outcome	Fair use found

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