

UNITED STATES DISTRICT COURT  
CENTRAL DISTRICT OF CALIFORNIA

CIVIL MINUTES - GENERAL

Case No. CR 03-1219 AHM Date May 17, 2005

Title UNITED STATES OF AMERICA v. DAVID F. ROSEN

Present: The Honorable A. Howard Matz

Stephen Montes

Leslie King

Deputy Clerk

Court Reporter / Recorder

Tape No.

Attorneys Present for Plaintiffs:

Attorneys Present for Defendants:

No Appearance

No Appearance

**Proceedings:** In Chambers

Today the Court received a letter dated May 16, 2005 from David E. McCraw, Counsel for the New York Times Company, requesting that “the Clerk’s Office be directed to establish a time and location where reporters can timely review the materials and receive or make copies” of exhibits entered into evidence. *Valley Broadcasting Company v. United States District Court*, 798 F.2d 1289 (9th Cir. 1986) establishes that in this Circuit, under common-law principles this application for review and possible copying of evidence received during the ongoing course of a criminal trial “requires that the trial court start with ‘a strong presumption’ in favor of access, to be overcome only ‘on the basis of articulable facts known to the court, not on the basis of unsupported hypothesis or conjecture.’” *Id.* at 1293. Other cases in this Circuit have cited *Valley Broadcasting Company* for this proposition; it is unnecessary to cite those cases here.

The Court discussed the request of the New York Times Company with counsel for the parties. Although one side would prefer that no such access be permitted, no party pointed to any “articulable” fact that would militate against granting the request, and the Court cannot identify any such fact. Accordingly, the Court GRANTS the request of the New York Times Company, subject to the considerations discussed below.

The Government has identified many documents that it intends to introduce in its case-in-chief. Defendant, through his counsel, has already stipulated to the admission of many of these items. Thus far, several documents have been received and were the subject of in-court examination. In order to avoid any possible risk of loss, destruction or alteration of the “original” of the evidence that has been or will be admitted, and in order to avoid burdening the Courtroom Deputy Clerk with yet additional administrative tasks and responsibilities, the Court hereby ORDERS the Government to duplicate any

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admitted documentary exhibit that an authorized member of the Press wishes to inspect and possibly copy. The Press may make these requests to the Government orally and informally. Each such request by the Press for access and copying shall be specific - - *i.e.*, the requester must identify the exhibit number. In order to avoid unnecessary copying and attendant ecological waste, in the case of voluminous exhibits as to which only a handful of pages was the subject of actual inquiry, the Press shall specify the precise pages, if possible. Thereafter, the Government shall provide the requested copy or copies to the District Court Executive/Clerk of the Court. She shall maintain custody of such duplicated exhibits and shall permit access by members of the Press.

The Court delegates to the District Court Executive/Clerk of the Court the discretion to determine the appropriate arrangements and safeguards, including whether additional copying of requested exhibits would impose a burden on the already-overworked clerical staff in the Clerk's Office. If so, she may require that the copying equipment and the copying itself be provided and undertaken by the requesting party or parties.

The Court encourages the members of the Press to devise something comparable to a "media pool," to assure that only one request for a given exhibit will be made.

Initials of Preparer \_\_\_\_\_ : \_\_\_\_\_  
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