

**Morris v. Guetta,
No. LA CV12-00684 JAK (RZX) (C.D. Cal. Feb. 4, 2013)**

Year	2013
Court	United States District Court for the Central District of California
Key Facts	Plaintiff Dennis Morris alleged that defendant Thierry Guetta infringed his 1977 photograph of Sid Vicious, former bassist for the Sex Pistols. Defendant was an “appropriation artist” who created pop art pieces that included modified pictures of celebrities. Defendant incorporated plaintiff’s photo into seven pieces of artwork by altering the photo in different ways, such as changing the color contrast and adding colors or other visual elements.
Issue	Whether defendant’s unauthorized incorporation of plaintiff’s photograph into art pieces constituted fair use.
Holding	The court granted plaintiff’s motion for partial summary judgment on the issue of copyright infringement. The court found that defendant’s use did not constitute fair use because the alterations were not sufficiently transformative. The court found that the changes did not add something new, have a further purpose, or give the photos a different character than the original, with new expression, meaning, or message. As to the second factor, the court found plaintiff’s photograph to be marginally creative, although it was more documentary than aesthetic, weighing slightly against a finding of fair use. For amount and substantiality of the portion used, because defendant relied on and used the photograph itself to create the artworks, the court found this factor weighed against fair use. Finally, on the fourth factor, though the court found that there was no clear harm to the market for, or value of, the photograph, it determined that even a lack of harm would not excuse an unjustified use.
Tags	Ninth Circuit; Painting/Drawing/Graphic; Photograph
Outcome	Fair use not found

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