

UNITED STATES COURT OF APPEALS FOR THE SECOND CIRCUIT

United States v. Biaggi

837 F.2d 599 (2d Cir. 1988) · Decided January 28, 1988

SUMMARY

The Second Circuit affirmed an order requiring disclosure, subject to redactions, of documents filed under seal in connection with a suppression motion concerning electronic surveillance in the prosecution of Mario Biaggi and Meade Esposito. The court held that the district judge properly applied the criteria established in prior New York Times decisions and granted a stay of mandate pending a potential certiorari application.

CASE DETAILS

COURT	United States Court of Appeals for the Second Circuit
WRITING FOR THE COURT	Altimari; Feinberg; Pierce
JURISDICTION	Federal
DECIDED	January 28, 1988
DISPOSITION	affirmed
PROCEDURAL POSTURE	Meade Esposito appealed an order of the United States District Court for the Eastern District of New York requiring disclosure, with redactions, of documents filed under seal in connection with a pretrial motion to suppress evidence obtained through electronic surveillance.
STANDARD OF REVIEW	Abuse of discretion; the court reviewed whether the district court properly applied the criteria established in the prior New York Times decisions and found no persuasive reason to overturn its exercise of discretion.
PRECEDENTIAL VALUE	Published federal appellate opinion
PARTIES	Meade Esposito v. United States

TOPICS

- suppression of evidence
- criminal procedure
- appellate procedure

PRACTICE AREAS

- criminal procedure
- evidence
- appellate procedure

QUESTIONS PRESENTED

1. Whether the district court's order requiring disclosure, with redactions, of sealed documents filed in connection with a motion to suppress electronically surveilled evidence violated the privacy interests of the defendants and third parties.
2. Whether the district court properly applied the disclosure criteria established in the Second Circuit's prior New York Times decisions.

HOLDINGS

1. The district court's order requiring disclosure, with certain redactions, of the sealed documents did not warrant vacatur on privacy-interest grounds.

KEY QUOTATIONS

“The judgment of the district court is affirmed.” (837 F.2d at 599)

“Judge Weinstein applied the criteria that we set forth in New York Times I and New York Times II and we see no persuasive reason for overturning his exercise of discretion.” (837 F.2d at 599)

FACTUAL BACKGROUND

Several documents had been filed under seal in connection with a pretrial motion to suppress evidence obtained through electronic surveillance under Title III of the Omnibus Crime Control and Safe Streets Act of 1968. The documents arose from the criminal prosecution of Congressman Mario Biaggi and Meade Esposito. The district court ordered disclosure of the documents with certain redactions, prompting Esposito to appeal based on asserted privacy interests of himself, Biaggi, and other third parties.

PROCEDURAL HISTORY

The district court, Chief Judge Jack B. Weinstein presiding, entered the disclosure order on December 17, 1987, after a December 16 hearing held pursuant to the Second Circuit's remand in *In re The New York Times Co.* The appeal followed two prior expedited appeals and remands concerning disclosure of the sealed documents. The Second Circuit stayed disclosure pending appeal, expedited the appeal, and affirmed the district court's order.

DISPOSITION

affirmed

CASES CITED

- *In re The New York Times Co.*, 834 F.2d 1152 (2d Cir. 1987)
- *In re The New York Times Co.*, 828 F.2d 110 (2d Cir. 1987)

OPINION

PER CURIAM.

PER CURIAM: Meade Esposito appeals from an order of the United States District Court for the Eastern District of New York, Jack B. Weinstein, Ch. J., dated December 17, 1987, mandating disclosure, with certain redactions, of several documents filed under seal in connection with a pretrial motion to suppress evidence obtained by electronic surveillance pursuant to Title III of the Omnibus Crime Control and Safe Streets Act of 1968, 18 U.S.C. § 2510 et seq., in the criminal prosecution of Congressman Mario Biaggi and Meade Esposito.

The order was entered after a hearing in the district court on December 16, 1987, following this court's remand in *In re The New York Times Co.*, 834 F.2d 1152 (2d Cir.1987) ("New York Times II"), which itself followed an expedited appeal from an order entered after our remand in *In re The New York Times Co.*, 828 F.2d 110 (2d Cir.1987) ("New York Times I"). Familiarity of the reader with both opinions will be assumed.

On December 22, 1987, this court stayed disclosure of the sealed documents pending disposition of this appeal and expedited the appeal. Appellant argues that Judge Weinstein's order should be vacated and the matter remanded for a third time because the order violates the privacy interests of appellant, Congressman Biaggi and other third parties.

We disagree. Judge Weinstein applied the criteria that we set forth in *New York Times I* and *New York Times II* and we see no persuasive reason for overturning his exercise of discretion. The judgment of the district court is affirmed. Appellant's request for a stay of mandate pursuant to Fed.R.App.P. 41(b) pending application for certiorari is granted, provided that the application is filed within ten days from the date of this opinion.