[FR] Prisoner Claims Ban on Showing Images of his Escape

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On 8 November 2013 the judge at the regional court in Nantes delivered a decision under the urgent procedure in a rather unusual case. A well-known criminal who had escaped from prison on 13 April 2013 using explosives, after having taken four prison warders hostage (he was recaptured the following month) had discovered that the television channel M6 was preparing for broadcast a number of images filmed by prison video surveillance cameras when he escaped, as part of a news report on prisons and the violence that is omnipresent in them. He therefore had the television channel summoned to appear in court under the urgent procedure on the basis of Article 9 of the Civil Code, in order to prevent the images from being used. This was because he held that broadcasting them without first obtaining his consent constituted an infringement of his right to the use of images of him, all the more so in that they were covered by the confidentiality of the court's investigation, and that a prison was not a public place. In his decision, the judge was careful to recall the principle according to which banning the showing of an audiovisual work to the public constituted in itself an exceptional infringement of free speech that could only be envisaged in extremely serious cases. In accordance with Article 10 of the European Convention on Human Rights (ECHR), showing the image of a person, even if it was in circumstances independent of his/her professional activities, was lawful as long as it was for the purpose of illustrating an article or report on a topical event in which that person was involved. The judge recalled that the prisoner's escape had been extensively covered in the media and therefore constituted a news item. Moreover, showing the applicant's image constituted a pertinent illustration in a news report on violence in prisons, in which escape stories were an appropriate example. The court therefore found that showing these images constituted legitimate information for the public on a subject of general interest. The prisoner was therefore not justified in invoking his right to prevent the use of images of him; it was irrelevant that the programme was not devoted to him exclusively, and that the images had been recorded in a place not open to the public, while he had been committing a crime for his own personal ends. This was all the more true in that, as the European Court of Human Rights had noted, Article 8 of the ECHR could not be invoked to complain of damage to one's reputation which would foreseeably result from one's own actions, particularly in the context of a crime. Lastly, it was noted that neither the television channel nor the producer were bound by the confidentiality of the

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investigation. The applicant had therefore not demonstrated in the present case the existence of a manifestly unlawful disturbance or imminent damage that he would be entitled to have stopped. The judge therefore rejected his application, and found for the remainder that, by choosing to make use of a procedure that was reserved for urgent matters in order to claim a measure of exceptional gravity on the basis of arguments that were bound to fail, the applicant had abused his right to take legal action. He was therefore ordered to pay a civil fine of EUR 2,000. The news report and the disputed images were therefore broadcast on M6 on 10 November 2013 as scheduled.

TGI de Nanterre (ord. réf.), 8 novembre 2013 - R. Faid c. Sté M6 et a.

Regional court of Nanterre (under the urgent procedure), 8 November 2013 - R. Faid v. the company M6 and others

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