

Affidavit by Mrs. Kennedy

SUPREME COURT
OF THE STATE OF NEW YORK
COUNTY OF NEW YORK

JACQUELINE B. KENNEDY,

Plaintiff,

-against-

HARPER & ROW,
PUBLISHERS, INC.,
COWLES COMMUNICATIONS,
and WILLIAM MANCHESTER,

Defendants.

AFFIDAVIT
IN SUPPORT
OF MOTION

STATE OF NEW YORK }
COUNTY OF NEW YORK } ss.:

JACQUELINE B. KENNEDY, being duly sworn, deposes and says:

1. I am the plaintiff in this action and submit this affidavit in support of a motion for an injunction *pendente lite*. (Copies of the summons and complaint are annexed to these papers. Defendants Harper and Cowles have been served with the summons.)

2. This relief is required to prevent the imminent and willful destruction of my rights under agreements entered into between my brother-in-law, Robert F. Kennedy, and the defendant William Manchester (hereinafter "Manchester") under which, in return for invaluable help furnished by me to defendant Manchester in his preparation of a manuscript concerning the death of President John F. Kennedy, defendant Manchester agreed not to publish that manuscript until he had obtained my express consent and approval as to the mode, time and text of any publication.

3. In spite of that express agreement, which was known to defendant Cowles Communications, Inc. (hereinafter "COWLES"), the publisher of LOOK Magazine, and defendant Harper & Row, Publishers, Inc. (hereinafter "Harper"), a large publisher and distributor of books, each of these defendants has entered into agreements with defendant Manchester and intend to take actions thereunder in violation of my express rights.

4. The Manchester-Harper arrangement contemplates publication of the manuscript in book form in March or April of next year. The Manchester-Cowles agreement calls for publication of portions of defendant Manchester's manuscript in serial form in LOOK Magazine starting in January 1967. Both Harper and Cowles refuse to recognize my rights under the agreement between Manchester and Robert F. Kennedy (even though they were at all times well aware of them) and intend to publish without my consent or approval.

5. I have not given my consent or approval to any

publication of Manchester's manuscript.

6. In addition, my common-law copyrights in certain materials are in imminent danger of infringement and my name has been conspicuously used in advertisements promoting the sale of LOOK Magazine without my permission.

The Background Facts and the Agreement With Manchester

7. The principal facts underlying this dispute are not complex and are set forth at length in the verified complaint, which, together with the summons, is annexed to these papers. They are as follows:

8. After the death of President Kennedy, our family became concerned about the spate of sensational and highly commercialized writings which we knew would appear concerning that event.

9. In an attempt to make available to the public at least one work of accuracy and good taste which would be presented in a dignified manner, the family decided to assist defendant Manchester, a recognized author, in the preparation of an account of the circumstances and events surrounding the death of President Kennedy. On behalf of the Kennedy family, and after discussions with defendant Manchester, Robert F. Kennedy entered into certain understandings with him which are described at length in the verified complaint.

10. The central theme and purpose of the understandings was to assure the accuracy, good taste and dignity of the text Manchester was to prepare and its presentation to the public without sensationalism and excessive commercialism.

11. To make certain that the objectives would be achieved, the written portion of the understanding (Complaint, Exh. "A"), which was signed by Robert F. Kennedy and by defendant Manchester (hereinafter "the Agreement"), specifically reserved to me (and to Robert F. Kennedy, as well) the right to approve not only the text of Manchester's proposed manuscript prior to its publication as well. In short, no publication was to occur until after I had expressed my approval on all aspects. Indeed the disposal by Manchester of any rights of publication was itself subject to my approval.

12. Manchester's full assent to these principles is well illustrated by a letter dated March 9, 1964 (a copy of which is annexed hereto as Exhibit "1") which he sent to Robert F. Kennedy prior to his signing the written Agreement and by his concurrence in a public statement released when the Agreement was signed (Complaint, Exh. "B"). Both of these documents clearly set forth the

terms and the purposes of the project.

13. Thereafter, and in accordance with our arrangements with Manchester, he was afforded personal interviews with many of the principal figures, including lengthy sessions with me and with Robert F. Kennedy. I would not have spoken to him had I not had the protection of the Agreement.

14. Manchester was also introduced by me and Robert F. Kennedy to various government officials, and granted access to many documents. Without my intervention and that of other members and friends of the late President's family, Manchester would not have been able to gather so much pertinent and personal information. The very fact that the family of President Kennedy was cooperating with Manchester was, of course, of immeasurable help to him in his amassing the facts. We gave him this help because we were protected by the Agreement from improper use of the material he received.

15. Manchester has apparently completed his manuscript which, I am told, is approximately 300,000 words in length.

The Destruction of My Contract Rights

16. In spite of the fact that each of the defendants always was fully aware of my rights under the Agreement entered into between Robert F. Kennedy and Manchester, they have acted in willful disregard of those rights. I can point to at least three separate acts of the defendants which clearly transgress my rights under that contract.

The Proposed Harper Publication

17. In or about April 1964, Manchester entered into an agreement with defendant Harper in which the defendant Harper agreed to act as Manchester's publisher in the United States. Defendant Harper was at the time fully aware of the terms of the Agreement entered into between Robert F. Kennedy and Manchester. Since then, and especially in the last few months, Harper has been repeatedly advised of my rights by Robert F. Kennedy, by me, and by my attorneys. Harper knows that I have not given my approval to any publication of Manchester's manuscript.

18. Until very recently, Harper took the position that it would not publish the manuscript until I had given my approval, both as to the mode and time of publication and the text of the manuscript. Very recently, however, Harper has changed its position and has indicated that it intends to go ahead with publication in March or April of 1967. After that change of position, my attorney, Simon

H. Rifkind, advised Harper that I had not consented to the publication, had not approved any version of the manuscript, and had not approved or designated any publication date for any version of the work. Annexed hereto as Exhibit "2" is a copy of a letter dated December 9, 1966 from Judge Rifkind to Harper so advising Harper.

19. Yet, I am informed and believe that Harper intends to flout the Agreement and to commence publication in March or April of next year, in complete and utter disregard of my rights.

20. This action by Harper is particularly distressing to me because defendant Harper was designated as the publisher at my request and had been the publisher of several books authored by President Kennedy, including "Profiles in Courage."

The Proposed Cowles Publication

21. Defendant Manchester has entered into a contract with defendant Cowles (Complaint, Exh. "C") in which he sold serial rights in the manuscript to Cowles. Their advertisements

(Complaint, Exhs. "D" to "H") indicate that Cowles intends to serialize portions of the manuscript in issues of LOOK Magazine commencing in January 1967.

22. The proposed Cowles publication will consist of a truncated version of the full manuscript — 80,000 words of the 300,000 words in the manuscript. Cowles may also add to the manuscript with Manchester's permission. Moreover, the contract permits Cowles to sell extracts of the manuscript, not in excess of 80,000 words, to others. I am advised that Cowles has already done so.

23. Pursuant to the agreement with Cowles, Manchester is to receive \$665,000.

24. Cowles admittedly knew of Manchester's contractual commitments to me when it entered into its agreement with him. Cowles has repeatedly been told of my rights under the contract by me personally, by my brother-in-law, Robert F. Kennedy, and by my attorneys.

25. Cowles has also been notified that I have not approved or consented to the proposed serialization. Thus, on August 29, 1966, my attorney, Simon H. Rifkind, wrote to the Executive Vice President of Cowles a letter stating in part that any proposed publication in any form required my approval and that such approval had not been given. Annexed hereto as Exhibit "3" is a copy of the letter. The same position is asserted in Judge Rifkind's letter of December 9, 1966, a copy of which is annexed as Exhibit "4".

26. Notwithstanding the foregoing, Cowles has announced its intention to publish excerpts from the manuscript commencing in January 1967.

The Proposed British Publication

27. In addition, I am advised that Manchester has recently granted to Michael Joseph, Ltd. of London, England, the right to publish the manuscript in book form in England. I have never given my consent or approval to this publication.

28. Clearly, none of the defendants has the right to publish without my consent, and any grant of such a right from defendant Manchester is ineffective. Defendant Manchester cannot convey to others what he does not have — my approval of the text, time and mode of publication.

29. The acts of the defendants and the proposed publications not only are a willful breach of the Agreement and understanding with defendant Manchester, but will destroy their very core.

The Absence of Any Approval by Me

30. I have never seen Manchester's manuscript. I have not approved it, nor have I authorized anyone else to approve it for me. I have no knowledge of how much, if at all, the proposed LOOK serialization varies from the manuscript as originally written by defendant Manchester or what portions of the manuscript are to be printed.

31. I cannot be said to have approved what I have never seen, and yet, because it is widely known that I personally (and the Kennedy family) extended so much help to defendant Manchester, it will be only natural for the public to believe that the manuscript is published with my approval. Indeed, the advertising material (Complaint, Exhs. "D" to "H") lends support to that notion. For this very reason, I have insisted and continue to insist upon my right to approve the manuscript.

32. Moreover, the advertising material (Complaint, Exhs. "D" to "G") circulated by defendant Cowles has generally included or consisted of extensive quotations from the introduction to the book. This, in and of itself, is an act forbidden by the Agreement, for I certainly gave no approval for the publication at this time and in this form of an important portion of the manuscript.

The Use of My Name for Advertising Purposes and the Infringement of My Copyrights

33. As is more fully described in the complaint, the defendants, in addition to destroying my contractual rights, are also engaged in violations of my rights under Sections 50 and 51 of the New York State Civil Rights Act and in violations of my common-law copyrights.

34. The defendant Cowles has repeatedly used my name, without permission, in advertisements in an attempt to sell subscriptions to its magazine. (See Complaint, Exhs. "D" to "H".)

35. In addition, Manchester has obtained copies of certain letters that my daughter, Caroline, and I had written to President Kennedy. I also permitted him to record lengthy interviews with me. I believe he now has both the letters and

the tapes in his possession. I am informed and believe that the manuscript contains long quotations from the letters and from the spoken material which I dictated onto the tapes.

36. I am advised by counsel that I am the owner of the copyright in all of this material and that Manchester's purported use of it in the manuscript is in violation of that copyright.

37. Finally, the position taken by defendants Cowles and Harper is that they have the right to publish because of the agreements they made with defendant Manchester. But, at the time they made those agreements, they knew of my rights under the basic Agreement between Manchester and Robert F. Kennedy and the basic understanding among all three of us as to the nature of the project.

38. Defendants Cowles and Harper, by making the contracts which they did with Manchester have, I am advised by counsel, induced Manchester to breach his Agreement with Robert F. Kennedy. By taking the position which they now take, defendants Cowles and Harper seek to compel Manchester to breach his Agreement with Robert F. Kennedy by insisting that under those contracts the

defendants Harper and Cowles have the right to go ahead and publish without my consent and approval of the mode and time of publication and the text thereof and without such approval from Robert F. Kennedy.

Conclusion

39. Under the Agreement between Robert F. Kennedy and defendant Manchester, defendants are not permitted to publish without my approval of the text, time and mode of publication. The disposal of publication rights to defendant Cowles (and Cowles' redisposal of them to others), to defendant Harper, to Michael Joseph and to others necessarily is subject to my approval. All of the defendants certainly were aware of the terms of the Agreement which so provide. Publication of the unapproved manuscript, in any form, at an unapproved time, not only is a breach of the Agreement which Manchester entered into with Robert F. Kennedy and a violation of my rights, but will cause me great and irreparable injury. It will result in precisely the sensationalism and commercialism which we — Robert F. Kennedy and I — sought so strenuously to avoid. The threatened publication is in total disregard of my rights and, if it goes forward, will utterly destroy them.

40. I respectfully request that this Court issue a preliminary injunction as prayed for in the order to show cause pending the hearing and determination of this action to prevent the utter subversion of my contractual rights and the further improper activities of the defendants. The relative harm which might occur to defendants if I am proven to be wrong is minor, for there will be only a short delay, if any, in publication. The injury to me, if the injunction is denied, will be irreparable because my contract rights will have been completely and irretrievably destroyed. I ask only that this Court preserve the status quo, and I have no objections to an immediate trial.

41. No prior application has been made for the relief requested herein.

JACQUELINE B. KENNEDY.