

IN THE UNITED STATES COURT OF APPEALS
FOR THE FIFTH CIRCUIT

No. 94-50103

UNITED STATES OF AMERICA,

Plaintiff-Appellee,

versus

BRAD EUGENE BRANCH, ET AL.,

Defendants-Appellees,

versus

AMERICAN BROADCASTING COS., INC., CABLE NEWS
NETWORK, INC., NATIONAL BROADCASTING CO., INC.
and CBS INC.,

Intervenors-Appellants.

Appeal from the United States District Court for
the Western District of Texas
(W 93 CR 46)

(June 16, 1994)

Before REAVLEY, JONES and BENAVIDES, Circuit Judges.

PER CURIAM:*

The broadcast media sought contemporaneous access to
evidence as it was introduced in the trial of the Branch

*Local Rule 47.5 provides: "The publication of opinions
that have no precedential value and merely decide particular
cases on the basis of well-settled principles of law imposes
needless expense on the public and burdens on the legal
profession." Pursuant to that Rule, the Court has determined
that this opinion should not be published.

Davidians. Presiding Judge Smith limited the media to copies, where available, of transcripts of tapes as introduced. We find no abuse of discretion and affirm.

Belo Broadcasting Corp. v. Clark 654 F.2d 423 (5th Cir. 1981) remains the law in this circuit. The media shares the common law, not constitutional, right of access to exhibits. Control of that access is vested in the court, in the exercise of its discretion. Following completion of the trial with no companion trial to come, we would expect the court to allow access to public records such as the trial exhibits. However, during the trial itself we would be reluctant to question the judge's control of the trial exhibits.

AFFIRMED.