

**FILED**

**JUN 06 2002**

**NOT FOR PUBLICATION**

UNITED STATES COURT OF APPEALS CATHY A. CATTERSON, CLERK  
U. S. COURT OF APPEALS

FOR THE NINTH CIRCUIT

ALLAN J. FAVISH,;

Plaintiff - Appellant,

SHEILA FOSTER ANTHONY, et al.,

Intervenors - Appellees,

v.

OFFICE OF INDEPENDENT COUNSEL,

Defendant - Appellee.

No. 01-55487

D.C. No. CV-97-01479-WDK

ORDER\*

ALLAN J. FAVISH,;

Plaintiff - Appellee,

SHEILA FOSTER ANTHONY, et al.,

Intervenors - Appellants,

v.

No. 01-55788

D.C. No. CV-97-01479-WDK

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\* This disposition is not appropriate for publication and may not be cited to or by the courts of this circuit except as may be provided by Ninth Circuit Rule 36-3.

OFFICE OF INDEPENDENT COUNSEL,

Defendant.

ALLAN J. FAVISH,

Plaintiff - Appellee,

v.

OFFICE OF INDEPENDENT COUNSEL,

Defendant - Appellant,

and

SHEILA FOSTER ANTHONY, et al.,

Defendant-Intervenors.

No. 01-55789

D.C. No.

CV-97-01479-WDK-05

Appeal from the United States District Court  
for the Central District of California  
William D. Keller, District Judge, Presiding

Submitted May 20, 2002\*\*  
San Francisco, California

Before: PREGERSON, NOONAN and O'SCANNLAIN, Circuit Judges

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\*\* This panel unanimously finds this case suitable for decision without oral argument. See Fed. R. App. P. 34(a)(2).

The order of the district court of January 11, 2001 is AFFIRMED, except that photo 3-VF's body looking down from top of berm is to be withheld.

**FILED**

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**CATHY A. CATTERSON, CLERK  
U.S. COURT OF APPEALS**

*Favish v Independent Counsel 01-55487*

PREGERSON, Circuit Judge, dissenting:

I continue to maintain that the record before the district court before remand was “sufficiently detailed for the district court to resolve the issues in this case” without an in camera review of the ten photographs at issue. Favish v. OIC, 217 F.3d 1168, 1186 (9th Cir. 2000). Nevertheless, having personally viewed the ten photographs, I adhere to my prior conclusion that only the photograph of Foster’s right hand clutching the gun should be released because “[t]he public’s interest in disclosure of the remaining nine, never-before-released post-mortem Polaroid photographs does not outweigh the privacy interests of Vincent Foster’s surviving family in their nondisclosure.” Id.