

Joseph-Wagner-James-20050315200003

To: Julie L. Sigall  
Associate Register for Policy & International Affairs

Date: 03/15/2005

From: James Joseph Wagner

Comment:

Hello,

Our family has very recently been shown the toll that the problem of "orphaned works" can inflict. This past February, my wife's 43 year old sister, Mary FitzGerald, unexpectedly passed away. It is a clearly a tremendously difficult time for my wife her, her parents and her siblings. While preparing for the wake, I was lent by someone a lone copy of Mary's elementary school photograph from the 1960's. I scanned it and took the image to Walgreens to print an enlargement that would help comfort all at the wake and funeral with happy memory of Mary's joyful smile that she had as a child and kept through her entire life.

Unfortunately when I returned to the store to pick up the print, I was told that the Store manager had confiscated the print because, as it clearly was a school photograph, it must be a copyrighted work. They acknowledged that the photo was clearly from the 60's and getting written permission to enlarge would be impossible but copyright law didn't allow them any room for discretion. There was no copyright mark on the front or back of the photograph to identify the copyright owner, or even to confirm that the such copy restrictions weren't released upon purchase or after ten or twenty years.

I had to return to Mary's parents' house and tell them and her sisters that this memento of Mary will be barred to them in their time of grief, irreparably and for no real reason but empty law.

I would urge the Copyright Office to address this issue with compassion and wisdom.