

United States District Court, Northern District of Illinois

Name of Assigned Judge or Magistrate Judge	Amy J. St. Eve	Sitting Judge if Other than Assigned Judge	
CASE NUMBER	05 CR 691 - 4	DATE	2/28/2008
CASE TITLE	USA vs. Antoin Rezko		

DOCKET ENTRY TEXT

Defendant's Motion in Limine to Exclude Evidence Regarding the Rezko Family Home is denied. (R. 346-1.)

■ [For further details see text below.]

Notices mailed by Judicial staff.

STATEMENT

Defendant Rezko has moved in limine to preclude the government from introducing photographs of the Rezko family home in Wilmette, Illinois as evidence at trial. Defendant argues that the photographs are irrelevant and prejudicial. He further asserts that introduction of the photographs “will generate additional media attention and jeopardize further the Rezko family’s privacy and add unnecessary stress and anxiety for the family during an already difficult time.” (R. 346-1; Def. Mot. *in limine* ¶3.) Defendant’s motion is denied.

ANALYSIS

Rule 402 directs that all relevant evidence is admissible unless otherwise excluded by law. Fed.R. Evid. 402. Courts deem evidence relevant if it has some “tendency to make the existence of any fact that is of consequence to the determination of the action more probable or less probable than it would be without the evidence.” Fed.R. Evid. 401. *See United States v. Duran*, 407 F.3d 828, 834 (7th Cir. 2005) (quoting *United States v. Liporace*, 133 F.3d 541, 544 (7th Cir. 1998)).

The government contends the photographs are relevant because they will provide a visual for the jury when witnesses testify about events that occurred in the Rezko home and because they are evidence of Defendant’s motive to engage in the charged conduct, namely to maintain his “opulent lifestyle.” The Court agrees. *See United States v. Whiting*, 471 F.3d 792, 801 (7th Cir. 2006) (finding evidence of defendant’s wealth highly probative of intent to defraud).

Although Rule 402 commands the admission of relevant evidence, Rule 403 limits the admissibility of certain evidence. Rule 403 provides that a district court may exclude otherwise admissible evidence if its probative value is substantially outweighed by its unfair prejudicial impact. Fed.R. Evid. 403. *See United States v. Smith*, 502 F.3d 680, 686-87 (7th Cir. 2007); *United States v. Khan*, 508 F.3d 413, 417 (7th Cir. 2007). Most evidence may be prejudicial, but courts may only exclude evidence that is *unfairly* prejudicial.

STATEMENT

United States v. Hicks, 368 F.3d 801, 807 (7th Cir. 2004) (emphasis in original). “Evidence is considered unfairly prejudicial, not merely because it damages the opposing party’s case, but also because its admission makes it likely that the jury will be induced to decide the case on an improper basis, commonly an emotional one, rather than on the evidence presented. . .” *Thompson v. City of Chicago*, 472 F.3d 444, 456 (7th Cir. 2006) (quoting *United States v. Connelly*, 874 F.2d 412, 418 (7th Cir. 1989)).

Defendant argues the Court should preclude admission of a photograph of the home pursuant to Rule 403 because “the picture will convey a thousand inadmissible words about Rezko’s affluent lifestyle.” (R. 346-1; Def. Mot. *in limine* ¶2.) The Court finds evidence regarding the Rezko home is not unduly prejudicial to Rezko because a photograph of the home alone likely will not cause the jury to decide the case based on emotions or another improper basis. The jury will already be aware of Defendant’s financial status based on other evidence; therefore, a photograph of the Rezko home likely will not be inflammatory. *See Smith*, 502 F.3d at 687.

Regarding the generation of additional publicity, it is highly doubtful that the introduction of this photograph into evidence alone will generate any more publicity than this highly publicized case has already received. Further, a picture of the residence already has been publicized by the media – including on television reports – thus its introduction in the courtroom likely is not going to raise any additional privacy concerns.

CONCLUSION

Because the admission of evidence regarding the Rezko home is relevant and its probative value is not substantially outweighed by its potential prejudicial impact, the Court denies Defendant’s motion *in limine* to preclude the government from introducing photographs of the Rezko family home.