

YouTube didn't have to yank anti-Muslim film, court says

by [Elizabeth Weise](#)

May 20, 2015

c. 2015 USA Today

SAN FRANCISCO — An appeals court has overturned a controversial ruling that required YouTube to take down a video that disparaged Muslims.

One of the actresses in the film sued to take it down and won, but an appeals court ruled Monday (May 18) that she didn't have the right to control the film's distribution.

When it was released in 2012, the short film, titled *Innocence of Muslims*, sparked violence in the Middle East and death threats to the actors.

"The appeal teaches a simple lesson—a weak copyright claim cannot justify censorship in the guise of authorship," the court wrote in its ruling.

Ninth Circuit chief judge Alex Kozinski had ruled in February that Cindy Lee Garcia, who appeared in the movie, could ask for an injunction against the movie because she said she and the other actors in the movie were duped and that anti-Muslim dialogue was dubbed in over their lines without their knowledge.

The actors said that they were hired to appear in a movie called *Desert Warrior* and that the film and script they worked on did not include references to Muhammad or Islam.

Google, which owns YouTube, said Garcia had no copyright claim to the film. It also argued that allowing someone with a bit part in a movie to suppress the final product could set a dangerous precedent that could give anyone involved in a production the right to stop its release.

A federal appeals court agreed, ruling Monday that YouTube should not have been forced to take the movie down from its site, despite that Garcia "was bamboozled

when a movie producer transformed her five-second acting performance into part of a blasphemous video proclamation against the prophet Mohammed,” the ruling said.

“This is not a blasphemy case, this is not a fraud case, this is a copyright case—an extremely unusual copyright case,” said Eugene Volokh, a law professor at UCLA who specializes in intellectual property issues.

In a typical movie, the filmmaker has an explicit or implicit agreement with the actors to use their work. In the film in question, Garcia claims that there is no contract because the filmmaker lied to her about the work in which she was performing, said Volokh.

The original opinion was a preliminary injunction that said Garcia owned the copyright to her work and could ask for the movie to be taken down from YouTube. Monday ruling from the Ninth U.S. Circuit Court of Appeals overturns that, saying the order to take the movie down was “unwarranted and incorrect.”

“Although Ms. Garcia has legitimate concerns and grievances, copyright law is not the appropriate remedy for them,” said Raza Panjwani, policy counsel at Public Knowledge, a Washington public interest group.

The 14-minute film was first uploaded to YouTube in 2012. It has also been titled *The Real Life of Muhammad* and *Muhammad Movie Trailer*.

The movie contains scenes that depict the Prophet Muhammad as a womanizer, homosexual, child molester, and thug.

While not the focus of the case, the court also said that the original ruling “gave short shrift to the First Amendment values at stake.”

The judges said the injunction “censored and suppressed a politically significant film—based upon a dubious and unprecedented theory of copyright. In so doing, the panel deprived the public of the ability to view firsthand, and judge for themselves, a film at the center of an international uproar.”

A YouTube user reposted the video after the ruling.