

## Judge upset with TV and Twitter in kitten abuse case bans cameras

**At first, just Channel 6 was excluded, then the broader order was issued**

By Dana Littlefield

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SAN DIEGO — A veteran San Diego judge said recently that he would no longer allow the news media to film or record proceedings in his courtroom after a dispute with a local television station over its coverage of an animal abuse case.

Superior Court Judge Frank Brown barred San Diego 6 News from a Dec. 1 sentencing hearing, but not other members of the media, saying he wanted an apology from the station for how its staff had covered the case, which involved a Marine accused of throwing a 4-month-old kitten against a wall.



*Photo by John Gibbins*

*San Diego Superior Court Judge Frank Brown, shown in this 2009 file photo, said recently he would not allow TV cameras in his courtroom after becoming upset with coverage by San Diego 6 News of an animal abuse case he handled.*

The judge said later that he did not prevent the station's reporters from attending the December hearing, just its cameras.

A few days after the sentencing, Brown said in an interview that he had discussed the matter with a fellow judge and decided he would not allow any cameras in his courtroom rather than single out one news organization.

Brown, who became a judge in 1988, has presided over many cases that have drawn the public's interest and has typically allowed newspapers and television stations to photograph the proceedings. But no more. "Regrettably, this is allowed," said Peter Scheer, executive director of the First Amendment Coalition, a San Rafael-based public-interest group.

Judges have substantial discretion under rules set by the California Judicial Council to determine whether to allow cameras in their courtrooms, but — technically — must do so on a case-by-case basis, Scheer said.

"It doesn't matter, practically speaking, because he or she can just say 'No' again and again and again," he said.

Brown's displeasure with San Diego 6 began in September when Marine Sgt. Fernando Pacheco, 27, pleaded guilty to felony animal abuse, which the judge reduced to a misdemeanor.

San Diego 6 News reported the story and asked viewers to respond through the social networking site Twitter with their views on the judge's decision.

At the Dec. 1 hearing for Pacheco, Brown repeatedly raised the subject of the news station's earlier reporting — its use of Twitter, in particular — and said later that he believed the station had not reported the story "thoroughly."

Brown said in court that he believed Pacheco hadn't intended to hurt the kitten, but he reacted instinctively when the animal scratched him. Noting that Pacheco paid nearly \$4,000 in veterinary bills, the judge ruled that no further punishment was necessary.

Attorneys in the case said the kitten, named Cullen, has recovered from its injuries, which included a broken leg and head trauma.

A Channel 6 news director did not respond to calls seeking comment for this story. But in its coverage of the December sentencing, the station defended its reporting and its use of Twitter in a story posted online.

"Judge Brown has asked for an apology, but San Diego 6 News feels we were serving you, our viewers, with our story and by including you in the conversation," the story read.

"We will continue to request camera access in Judge Brown's courtroom."

Scheer said he had "serious doubts" as to whether court rules would permit a judge to exclude cameras from one media outlet and not others simply because the judge didn't like the way a news station or newspaper had reported the case.

He said an exception would be if a news outlet violated a court order. In those instances, judges have been known to bar camera coverage by the offending news outlet for a certain number of hearings or for the duration of the case.

The news station is not accused of violating a court order in this case.

Brown is not the only San Diego County judge to keep cameras out of the courtroom. A few others, including Judge John Thompson in El Cajon and Judge Kerry Wells in San Diego, routinely deny media requests.

Marjorie Cohn, co-author of the book “Cameras in the Courtroom: Television and the Pursuit of Justice,” said judges have a list of 18 or more factors they can consider when deciding whether to permit camera coverage — such as promoting public access to the judicial system and the parties’ support or opposition to the request.

But the judge does not have to hold a hearing and the news media has no right to appeal.

“You can try, but you’re not going to get very far,” said Cohn, a professor of criminal law and human rights at Thomas Jefferson School of Law.

A committee made up of judges, lawyers and members of the news media, including a San Diego Union-Tribune reporter, developed a proposal this year to amend the state court’s media rules, adding the presumption that cameras would be permitted at court hearings unless a judge made a specific finding barring the media from photographing or recording the proceedings.

The proposal was met with strong resistance from judges and some defense attorneys and has since been shelved.

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